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Monday
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Briefings on How To Use the Federal Register—
For information on briefings in New York, NY, and Pittsburgh, PA, see announcement on the inside cover of this issue.

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How To Cite This Publication: Use the volume number and the page number. Example: 51 FR 12345.

THE FEDERAL REGISTER
WHAT IT IS AND HOW TO USE IT

FOR: Any person who uses the Federal Register and Code of Federal Regulations.

WHO: The Office of the Federal Register.

WHAT: Free public briefings (approximately 2 1/2 hours) to present:

1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
2. The relationship between the Federal Register and Code of Federal Regulations.
3. The important elements of typical Federal Register documents.
4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

NEW YORK, NY

WHEN: December 5 at 10:00 a.m.,

WHERE: Room 305A, 26 Federal Plaza, New York, NY

RESERVATIONS: Arlene Shapiro or Stephen Colon, New York Federal Information Center, 212–264–4810.

PITTSBURGH, PA

WHEN: December 8 at 1:30 p.m.,

WHERE: Room 2212, William S. Moorehead Federal Building, 1000 Liberty Avenue, Pittsburgh, PA

RESERVATIONS: Kenneth Jones or Lydia Shaw
Pittsburgh: 412–644–INFO
Philadelphia: 215–597–1707, 1709

Contents

Federal Register
Vol. 51, No. 221
Monday, November 17, 1986

Separate Parts In This Issue

Reader Aids
Additional information, including a list of public laws, telephone numbers, and finding aids, appears in the Reader Aids section at the end of this issue.

CFR PARTS AFFECTED IN THIS ISSUE

A cumulative list of the parts affected this month can be found in the Reader Aids section at the end of this issue.

3 CFR
Proclamations:
5570.....41471

14 CFR
39.....41473

15 CFR
806.....41476

21 CFR
522.....41476

29 CFR
1910.....41477

32 CFR
706 (2 documents).....41477, 41478

33 CFR
117.....41478
165.....41479

34 CFR
222.....41562

40 CFR
261 (7 documents).....41480–41501
300.....41570
Proposed Rules:
300.....41592

44 CFR
64.....41505

48 CFR
505.....41506
513.....41506
519.....41506
552.....41506

50 CFR
20.....41508
36.....41508
371.....41509

Federal Register
Vol. 51, No. 221
Monday, November 17, 1986

Presidential Documents

Title 3—

The President

Proclamation 5570 of November 13, 1986

National Adoption Week, 1986

By the President of the United States of America

A Proclamation

The family is the most important unit in society, because belonging to a family is so important to the individual. We all need the love and the nurture of a family. Children belong in a family, where they can be cared for and taught the moral values and traditions that give order and stability to our lives and to society as a whole. Many adults, who cannot have children or who have room in their hearts for more of them, desire the special joy of sharing their homes with children who would otherwise have none. For these families, adoption represents a happy marriage of personal needs that serves society's larger interests as well.

Despite the many parents who want and wait for children and the perfect gift of life adoption can represent, it has tended to become the forgotten option in America. Many Americans, however, are taking courageous steps to reverse this trend and to promote public awareness of the positive advantages of adoption. For instance, they are making us aware that today in America approximately 36,000 children are legally eligible and waiting for adoption. These children have special needs that loving and generous people can meet. Some of these children are physically, mentally, or emotionally handicapped, while some are older, or belong to minority groups, or have brothers and sisters and need to be adopted together. Through the combined efforts of public and private child welfare agencies, church and civic groups, adoptive parent and advocacy groups, businesses, and the communications media, loving families are being found for these wonderful children.

More and more Americans are also encouraging adoption as the best solution for single women facing crisis pregnancies. Thousands upon thousands of Americans long for children even as more than 4,000 unborn babies perish in our country each day by abortion. As a people we must do more to give all the support we can, during and after pregnancy, to the courageous and compassionate mothers who choose adoption as a means of giving their little ones a lifetime of love with a permanent family.

"Nobody has ever measured, even poets, how much a heart can hold," wrote Zelda Fitzgerald. We do well during this Thanksgiving season to remember that the human heart can hold a great deal indeed. Let us call to mind the children, both here in the United States and in other countries, who need families, and let us honor our adoptive families and the brave people whose sacrifice and selflessness make such families possible.

The Congress, by Senate Joint Resolution 306, has designated the week beginning November 23, 1986, as "National Adoption Week" and authorized and requested the President to issue a proclamation in observance of this week.

NOW, THEREFORE, I, RONALD REAGAN, President of the United States of America, do hereby proclaim the week beginning November 23, 1986, as National Adoption Week, and I call on all Americans, governmental and private agencies to observe the week with appropriate ceremonies and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this thirteenth day of November, in the year of our Lord nineteen hundred and eighty-six, and of the Independence of the United States of America the two hundred and eleventh.

Ronald Reagan

[FR Doc. 86-26007
Filed 11-13-86; 4:21 pm]
Billing code 3195-01-M

Rules and Regulations

Federal Register
Vol. 51, No. 221
Monday, November 17, 1986

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 86-NM-61-AD; Amdt. 39-5467]

Airworthiness Directives; Boeing Model 747 Series Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment supersedes an existing airworthiness directive (AD) that requires repetitive inspections for cracking, and repair as necessary, of body frame structure and skin in the nose (section 41) of the fuselage on certain Boeing Model 747 airplanes. This AD expands the area to be inspected. This action is prompted by a recent finding of numerous body frame structure cracks in other parts of section 41 which, if allowed to progress, could lead to sudden decompression of the fuselage.

DATE: *Effective:* December 15, 1986.

ADDRESSES: The applicable service information may be obtained from the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. It may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

FOR FURTHER INFORMATION CONTACT: Mr. Owen Schrader, Airframe Branch, ANM-120S; telephone (206) 431-1923. Mailing address: FAA, Northwest Mountain Region, 17900 Pacific Highway South, C-68966, Seattle, Washington 98168.

SUPPLEMENTARY INFORMATION: A proposal to amend Part 39 of the Federal Aviation Regulations to include an airworthiness directive to require inspection for cracking and subsequent repair, if necessary, was published in the **Federal Register** on July 1, 1986 (51 FR 23787). The comment period for the proposal closed on August 22, 1986.

Interested parties have been afforded an opportunity to participate in the making of this amendment. Due consideration has been given to all comments received.

Comments were received from the Air Transport Association (ATA) of America on behalf of its members. The ATA stated that operators have been denied an adequate comment period because Revision 3 to the Boeing Service Bulletin, which the accomplishment instructions for paragraphs C. through I. of the Notice of Proposed Rulemaking (NPRM) are provided, was released 29 days after the issuance of the NPRM. This effectively reduced the total comment period to less than 30 days. The FAA does not concur that this was an inadequate comment period. Revision 3 to the Boeing Service Bulletin did not expand the area to be inspected from the requirements of the Notice. It only added inspection procedures designed to assist the operator in performing the required inspections. Since the AD continues to allow FAA approved alternative procedures, no additional requirements are imposed by the reference to Revision 3 of the Boeing Service Bulletin. The comment period to the NPRM is therefore considered adequate.

The ATA and several ATA members requested that the effective date of the AD be delayed until repair kits for the area behind the flight engineers panel are available. The manufacturer has advised the FAA that the repair kits, and Service Bulletin instructions, will begin to become available by November 1, 1986. From a practical standpoint, due to notice and publication procedures, the final AD will not become effective prior to November 1, 1986. The comment will thereby be accommodated.

One ATA member requested that the compliance period of 500 landings, for airplanes with 16,000 landings or more, be increased to 750 landings to improve scheduling and flexibility. The FAA does not concur with the recommendation. In light of the severity of the hazard involved, and the time needed to perform the inspections, the FAA determined that the proposal for 500 landings was the shortest practicable compliance period. The FAA has determined that there have been no additional inspection reports that would support this increase.

The ATA commented that paragraph M. is not clear in what is meant by "new structure." The FAA does not concur. Paragraph M. clearly states "new structure" without any qualifications.

After issuing the NPRM, a repair and inspection procedure was developed by the maufacturer that will allow a 10,000 landings deferral of the repetitive inspections required by this AD. This deferral will apply to those operators who replace individual body frames, and not the adjacent structure. This deferral is conditioned upon accomplishment of a procedure, defined in new paragraph N., which requires inspection and repair, if necessary, of adjacent structure, and, in the area of stringer 6 from body stations 340 to 520, requires tear strap modification and stringer 6 replacement.

A new paragraph R. has been added to provide terminating action for the repetitive inspections required for the structure replaced and other adjacent structure.

One ATA member questioned the difference between Boeing Service Bulletin 747-53A2265, Revision 3, dated July 29, 1986, that allows inspection of the right side of the upper deck between body stations 340 to 400 to be deferred if the left side had no cracking, and the NPRM which requires inspection at every other inspection cycle even though the left side had no cracking. The member requested that the FAA review its justifying data in support of paragraph O. to determine if the AD can be revised to be consistent with the service bulletin.

This comment is incorrect in that the service bulletin would permit deferral only of the initial inspection, but would require inspections thereafter at each inspection cycle as specified in paragraph H. of the AD. A revision of the AD to conform to the specifications of the service bulletin would be beyond the scope of the notice and, therefore, has not been considered. The FAA will review this difference and, if appropriate, will consider future rulemaking to amend this AD.

The ATA commented that the $5,120,000 cost, estimated for the first

inspection cycle, is an understatement. This discrepancy is due to an early inaccurate labor estimate by the manufacturer. The current cost impact of the initial inspection cycle is $12,160,000.

Another commenter requested that FAA give special consideration to certain high time airplanes, by providing for an optional 500 landing compliance threshold for paragraphs D. and E. to coincide with the the inspection requirements of paragraph F. The proposed AD permits an operator to comply with paragraphs D. and E. at the same time that it complies with paragraph F.

This same commenter requested that the AD provide for repeat inspections at every 3,500 landings, if the operator chooses to accomplish the paragraphs D. and E. inspections concurrently with the paragraph F. requirements. The FAA does not concur. The rate of crack growth found in this structure requires that the 3,000 landing repetitive inspection interval be maintained.

The commenter also requested that, for any location that the frames are replaced, the requirements for repetitive inspections following that replacement be removed. The FAA concurs and, as discussed above, paragraph N. has been added to clarify the inspection requirements when a frame section is replaced.

The manufacturer suggested adding a borescope inspection method as an optional procedure for complying with paragraph H. The FAA concurs and paragraph H. has been revised to include an optional procedure.

Another commenter suggested rewording paragraph M. to ensure that structure adjacent to cracked and repaired frames continue to be inspected at 3,000 flight intervals. The FAA does not concur. Paragraph M. only addresses the case where all structure in an area is new and new structure need not be inspected. As discussed above, adjacent structure is covered by paragraph N.

Upon further review of paragraphs A. and B. the FAA has determined that the inspection threshold for paragraphs A. and B., for airplanes with fewer than 12,000 landings, should be increased from 400 to 1,000 landings. This increase will allow for inspection phase-in with paragraph D. The FAA has determined that safety would not be compromised by this increase.

As discussed above, the text of the AD has also been revised to call out Boeing Service Bulletin 747–53A2265, Revision 3, dated July 29, 1986, in places where the NPRM referred to FAA-approved procedures. This does not place any additional burden on the operators of Boeing Model 747 airplanes since paragraph P. allows the substitution of alternate approved procedures.

A new paragraph S. has been added to provide operators with the option of accomplishment of the inspection of section 41 in accordance with Boeing Service Bulletin 747–53A2265, Revision 3, dated July 29, 1986, or later FAA-approved revisions, as an acceptable equivalent method of compliance with this AD.

A number of editorial changes have been made in the final rule strictly for clarification purposes.

After careful review of the available data, including the comments noted above, the FAA has determined that air safety and the public interest require the adoption of the rule with the changes noted above.

In issuing the NPRM, Docket 86–NM–61–AD, the FAA intended to be consistent with the inspection, modification, and compliance time provisions of Boeing Service Bulletin 747–53A2265, Revision 3, which was still being developed by the manufacturer at that time. Following the issuance of the NPRM, the manufacturer issued Revision 3 to the service bulletin; however, it contained additional information which recommended more frequent inspections and repair procedures for certain areas, than was proposed in the NPRM. Although the intent of the FAA is to make the requirements of this final rule consistent with the recommendations of the service bulletin, it would be inappropriate to revise the final rule so as to increase the burden of compliance, since by doing so would expand the scope of the proposal without allowing appropriate time for public comment. The FAA, therefore, is considering future rulemaking to amend this AD to make its requirements consistent with the inspection, modification, and compliance provisions of Revision 3 of the service bulletin.

It is estimated that 160 airplanes of U.S. registry will be affected by this AD. It will take approximately 1,900 manhours per airplane to accomplish the required actions. (This number has been determined by averaging the number of manhours required to accomplish the 5 levels of imspection: Ranging from 3,600 manhours per airplane for the inspection required at 19,000 cycles, to 66 manhours per airplane for the inspection required at 8,000 cycles.) The average labor cost will be $40 per manhour. Based on these figures, the cost impact of this AD to U.S. operators is estimated to be $12,160,000 for the initial inspection cycle.

For the reasons discussed above, the FAA has determined that this regulation is not considered to be major under Executive Order 12291 or significant under Department of Transportation Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and it is certified under the criteria of the Regulatory Flexibility Act that this rule will not have a significant economic impact on a substantial number of small entities because few, if any, Boeing Model 747 airplanes are operated by small entities. A final evaluation prepared for this action is contained in the regulatory docket.

List of Subjects in 14 CFR Part 39

Aviation safety, Aircraft.

Adoption of the Amendment

PART 39—[AMENDED]

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends § 39.13 of Part 39 of the Federal Aviation Regulations as follows:

1. The authority citation for Part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97–449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By superseding AD T86–03–51, Amdt. 39–5297 (51 FR 16155; May 1, 1986); as follows:

Boeing: Applies to Model 747 series airplanes listed in Boeing Alert Service Bulletin 747–53A2265, Revision 2, dated May 8, 1986, certificated in any category. To detect cracking of forward fuselage (Section 41) internal and external structure, accomplish the following, unless already accomplished:

A. For airplanes, line numbers 1 through 87, perform a visual or X-ray inspection for cracking of the body frame structure and skins from body stations 360 through 380 from stringer 23 to the main deck floor, both left and right, in accordance with Boeing Service Bulletin 747–53A2265, Revision 2, dated May 8, 1986, or later FAA-approved revisions, in accordance with the schedule described in paragraph B., below.

B. For airplanes, line numbers 88 through 603, perform a visual or X-ray inspection for cracking of the body frame structure and skins in the following areas: on the main deck between body stations 240 and 400 from stringer 23 to the floor, both left and right; between body stations 200 and 240 from stringer 13A to 14E, both left and right; and at the body station 360 frame web at stringer 31, in accordance with Boeing Service Bulletin 747–53A2265, Revision 2, dated May 8, 1986, or later FAA-approved revisions, in accordance with the following schedule:

1. On airplanes that have accumulated more than 14,000 landings as of the effective date of this AD, inspect within 100 landings after the effective date of this AD.

2. On airplanes that have accumulated 12,000 to 14,000 landings as of the effective date of this AD, inspect within 200 landings after the effective date of this AD.

3. On airplanes that have accumulated fewer than 12,000 landings as of the effective date of this AD, inspect within 1,000 landings after the effective date of this AD, or prior to the accumulation of 10,000 landings, whichever occurs later.

Note.—Paragraphs A. and B. are part of telegraphic AD T86-03-51, effective May 19, 1986. AD T86-03-51 is superseded by this AD.

C. For airplanes, line numbers 88 through 603, within the next 600 landings after the effective date of this AD, or prior to the accumulation of 8,000 landings, whichever occurs later, perform a visual or X-ray inspection, for cracking, in accordance with Boeing Service Bulletin 747-53A2265, Revision 3, dated July 29, 1986, or later FAA-approved revisions, of the body frame structure and adjacent skin in the following areas: the lower forward corner of the overhead escape hatch, body station 360 at stringer 3L; and both sides of the airplane below the window belt and above the main deck floor (stringer 22 to stringer 26) from body stations 300 through 320.

D. Except as provided in paragraph O., below, for airplanes, line numbers 1 through 603, within the next 1,000 landings after the effective date of this AD, or prior to the accumulation of 10,000 landings, whichever occurs later, perform the following visual or X-ray inspections for cracking, in accordance with Boeing Service Bulletin 747-53A2265, Revision 3, dated July 29, 1986, or later FAA-approved revisions:

1. Inspect body frames and adjacent skin in the following areas: on both sides of the airplane from body station 200 through 240 between stringers 13A and 14E, at body station 240 between stringers 6 and 13A, from body station 240 through 400 between stringers 22 and 26, and from body station 500 through 520 between stringers 30 and 34; and on the left side of the airplane at body station 360 at stringer 3L.

2. Inspect body frames and floor beams at frame to floor beam attach location, and the adjacent skin on both sides of the airplane in the area of body station 330 between stringers 11 and 14 on both sides of the airplane.

3. Inspect body frames, adjacent skin, and tear straps on both sides of the airplane in the area from body station 360 through 420 between stringers 4 and 10A.

4. Inspect: (a) Body frames and adjacent skin, (b) sills, intercostals, and stringers, (c) floor beams within 3 inches of frames, and (d) skin and skin splices (internal and external general visual inspection with detailed external visual inspection at door cutout corners and body station 417, 460 and 480) on both sides of the airplane from body station 400 through 520 between upper deck floor and stringer 30.

E. Except as provided in paragraph O., below, for airplanes, line numbers 1 through 603, within the next 1,000 landings after the effective date of this AD, or prior to the accumulation of 13,000 landings, whichever occurs later, perform the following visual or X-ray inspections for cracking, in accordance with Boeing Service Bulletin 747-53A2265, Revision 3, dated July 29, 1986, or later FAA-approved revisions.

1. Inspect body frame structure, adjacent skin, tear straps, and sills on both sides of the airplane in the area from body station 340 through 400 between stringer 0 and the upper deck floor.

2. Inspect body frames, adjacent skin, and tear straps on both sides of the airplane in the area from body station 400 through 520 between stringer 6 and the upper deck floor.

3. Perform the inspections defined in paragraph D., above.

F. Except as provided in paragraph O., below, for airplanes, line numbers 1 through 603, within the next 500 landings after the effective date of this AD, or prior to the accumulation of 16,000 landings, whichever occurs later, perform the following visual or X-ray inspections for cracking of the body frames and adjacent skin in the following areas on both sides of the airplane, in accordance with Boeing Service Bulletin 747-53A2265, Revision 3, dated July 29, 1986, or later FAA approved revisions:

—From body stations 200 through 220 between stringers 0 and 13A;
—From body stations 220 through 240 between stringers 0 and 6;
—From body stations 240 through 400 between stringers 14 and 19;
—From body stations 240 through 400 between stringers 26 and 34;
—From body stations 400 through 480 between stringers 30 and 34;
—From body stations 320 through 340 between stringer 0 and cabin window upper sill;
—From body stations 400 through 520 between stringer 0 and 6;
—At body stations 240 between stringers 34L and 34R in belly area; and
—At body station 320 between stringer 34 to nose wheel well.

G. Except as provided in paragraph O., below, for airplanes, line numbers 1 through 603, within the next 500 landings after the effective date of this AD, or prior to the accumulation of 19,000 landings, whichever occurs later, perform visual or X-ray inspection, in accordance with Boeing Service Bulletin 747-53A2265, Revision 3, dated July 29, 1986, or later FAA-approved revisions, for cracking of the body frames and adjacent skin from body station 140 through 520 that are not identified in paragraphs D., E., and F., above.

H. Repeat the inspections required by paragraphs D., E., F., and G., above, at the following intervals:

1. If the immediately prior inspection was accomplished using visual methods, including borescope inspection methods described in Boeing Service Bulletin 747-53A2265, Revision 3, dated July 29, 1986, or later FAA-approved revision, perform the next inspection within the next 3,000 landings.

2. If the immediately prior inspection was accomplished using X-ray methods, perform the next inspection within the next 1,500 landings.

I. If X-ray results give indications of cracking, visually inspect the structure to determine the full extent of frame cracking in accordance with the following schedule:

1. Prior to further flight for all findings that indicate possible skin cracking, cracks exceeding the limits of Boeing Service Bulletin 747-53A2265, Revision 2, dated May 8, 1986, in one or more frames, or cracking in two or more adjacent frames.

2. Within 150 landings for all findings that indicate partial severance of one frame not exceeding the limits of Boeing Service Bulletin 747-53A2265, Revision 2, dated May 8, 1986, provided no adjacent skin cracking or adjacent frame cracking is found.

J. If any cracking is found by visual inspection, repair in accordance with FAA-approved procedures prior to further flight, unless cracking does not exceed the limits of the provisions of Section III, Paragraph G., of Boeing Service Bulletin 747-53A2265, Revision 2, dated May 8, 1986, or later FAA-approved revision.

K. For the purpose of complying with this AD, the number of landings may be determined to equal the number of pressurization cycles where the cabin pressure was greater than 2.0 PSI.

L. For Model 747SR airplanes only, based on continued mixed operation of lower cabin differentials, the initial inspection thresholds and the repetitive inspection intervals specified in this AD may be multiplied by a 1.2 adjustment factor.

M. For structure which has been replaced with new structure during previous airplane modification/repair, the inspection requirements above date from the time of replacement of that structure.

N. The requirement for the repetitive inspections of existing structure (skin, stringers, clips, shear ties, etc.) adjacent to any new body frame may be deferred for 10,000 landings, provided the adjacent structure was inspected and all cracks were repaired when the new frame was installed. The inspection requirements above date from the time of replacement of the frame.

In the area of stringer 6, from body stations 340 to 520, this deferral is contingent upon also accomplishing the following:

1. Tear strap modification at body stations 360 to 500, both left and right sides, in accordance with FAA approved procedures. (Tear strap modification is not required at body stations 380 to 440 on the right hand side for airplanes with right hand side crew service doors, and body stations 380 to 440 on the left hand side for airplanes with left hand side crew service doors.)

2. Replace stringer S-6 at body stations 340 to 400, both left and right sides. (Stringer replacement is not required at body stations 390 to 400 at crew service door locations.)

Note.—For example: The original threshold was 13,000 landings. The frame segment is replaced at 14,000 landings with a new frame segment. The next inspection threshold will be 10,000 landings after replacement. This will be followed by the resumption of the repetitive inspections at intervals of 1,500 or 3,000 landings.

O. Upper deck right side inspection from body stations 340 to 400 need be accomplished only if: (1) Any cracking is

found, or if any cracking was previously repaired, on upper deck left side from body station 340 to 400, excluding any body station 360 frame web cracking at left stringer 3 adjacent to the crew escape hatch lower forward corner; (2) if left side structure was previously replaced or modified; or (3) if, at the last inspection of the left side, the inspection was deferred on the right side.

P. An alternate method of compliance or adjustment of the compliance time, which provides an acceptable level of safety, may be used when approved by the Manager, Seattle Aircraft Certification Office, FAA, Northwest Mountain Region.

Q. Special flight permits may be issued in accordance with FAR 21.197 and 21.199 to operate airplanes to a base for the accomplishment of inspections and/or modifications required by this AD.

R. Installation of new and improved body frame structure in accordance with FAA-approved procedures is terminating action for the repetitive inspections required by this AD for the structure replaced and other adjacent structure.

S. An acceptable equivalent method of compliance with this AD is the accomplishment of the inspections of section 41 in accordance with the instructions and compliance schedule of Boeing Service Bulletin 747-53A2265, Revision 3, dated July 29, 1986, or later FAA-approved revisions.

This supersedes AD T86-03-51, Amendment 39-5297 (51 FR 16155; May 1, 1986), issued February 16, 1986.

All persons affected by this directive who have not already received the appropriate service information from the manufacturer may obtain copies upon request to the Boeing Commercial Airplane Company, P.O. Box 3707, Seattle, Washington 98124-2207. This information may be examined at the FAA, Northwest Mountain Region, 17900 Pacific Highway South, Seattle, Washington, or the Seattle Aircraft Certification Office, 9010 East Marginal Way South, Seattle, Washington.

This amendment becomes effective December 15, 1986.

Issued in Seattle, Washington, on November 5, 1986.

Wayne J. Barlow,

Director, Northwest Mountain Region.

[FR Doc. 86-25803 Filed 11-14-86; 8:45 am]

BILLING CODE 4910-13-M

DEPARTMENT OF COMMERCE

Bureau of Economic Analysis

15 CFR Part 806

[Docket No. 61094-6194]

OMB Control Number Assigned Pursuant to the Paperwork Reduction Act

AGENCY: Bureau of Economic Analysis, Commerce.

ACTION: Final rule, technical amendment.

SUMMARY: The Bureau of Economic Analysis is issuing this final rule to amend 15 CFR 806.18 to display a currently valid Office of Management and Budget (OMB) Control Number assigned pursuant to the Paperwork Reduction Act.

EFFECTIVE DATE: November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Barbara Russell, (202) 377-5161.

SUPPLEMENTARY INFORMATION: On July 26, 1984 OMB approved the information collection request for the annual survey of U.S. Direct Investment Abroad (OMB Control No. 0608-0053) to be published at 15 CFR 806.14 (49 FR 30058).

This OMB Control Number is being added to § 806.18 to comply with the requirements of section 3507(f) of the Paperwork Reduction Act.

Because this amendment relates to agency organization and management, it is not a "rule" within the meaning of section 1(a) of E.O. 12291 and accordingly is not subject to the requirements of that order nor is it subject to the Administrative Procedure Act (APA) requirements of notice and opportunity for comment and delayed effective date. Because a notice of proposed rulemaking is not required by the APA or any other law, this final rule is not subject to the requirements of the Regulatory Flexibility Act.

List of Subjects in 15 CFR Part 806

Economic statistics, Foreign investment in the United States, Reporting and recordkeeping requirements, United States investments abroad.

Dated: October 24, 1986.

Allan H. Young,

Deputy Director, Bureau of Economic Analysis.

PART 806—[AMENDED]

15 CFR Part 806 is amended as follows:

1. The authority citation for Part 806 is revised to read as follows:

Authority: 5 U.S.C. Sec. 301, 22 U.S.C. sec. 3101-3108 and E.O 11961, as amended.

§ 806.18 [Amended]

2. In § 806.18(b) add the current OMB Control Number 0608-0053 to the present list.

[FR Doc. 86-25809 Filed 11-14-86; 8:45 am]

BILLING CODE 3510-06-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 522

Implantation or Injectable Dosage Form New Animal Drugs Not Subject to Certification; Pyrilamine Maleate Injection

AGENCY: Food and Drug Administration.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of a new animal drug application (NADA) filed by Anthony Products Co., providing for use of pyrilamine maleate injection as an antihistamine in horses.

EFFECTIVE DATE: November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Sandra K. Woods, Center for Veterinary Medicine (HFV-114), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-443-3420.

SUPPLEMENTARY INFORMATION: Anthony Products Co., 5600 Peck Rd., Arcadia, CA 91006, is sponsor of NADA 138-405 for pyrilamine maleate injection. The drug is an antihistamine for use in horses. The application is approved and the regulations are amended to reflect the approval. The basis for approval is discussed in the freedom of information summary.

In accordance with the freedom of information provisions of Part 20 (21 CFR Part 20) and § 514.11(e)(2)(ii) (21 CFR 514.11(e)(2)(ii)), a summary of safety and effectiveness data and information submitted to support approval of this application may be seen in the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, from 9 a.m. to 4 p.m., Monday through Friday.

The agency has determined under 21 CFR 25.24(d)(1)(i) that this action is of a type that does not individually or cumulatively have a significant effect on the human environment. Therefore, neither an environmental assessment nor an environmental impact statement is required.

List of Subjects in 21 CFR Part 522

Animal drugs.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, Part 522 is amended as follows:

PART 522—IMPLANTATION OR INJECTABLE DOSAGE FORM NEW ANIMAL DRUGS NOT SUBJECT TO CERTIFICATION

1. The authority citation for 21 CFR Part 522 continues to read as follows:

Authority: Sec. 512(i), 82 Stat. 347 (21 U.S.C. 360b(i)); 21 CFR 5.10 and 5.83.

2. Section 522.2063 is amended by revising paragraph (b), redesignating paragraph (c)(2) as (c)(2)(i), and adding new paragraph (c)(2)(ii) to read as follows:

§ 522.2063 Pyrilamine maleate injection.

* * * * *

(b) *Sponsors.* See Nos. 000845 and 011519 in § 510.600(c) of this chapter for uses in paragraph (c)(2)(i) of this section; see No. 000864 in § 510.600(c) of this chapter for uses in paragraph (c)(2)(ii) of this section.

(c) * * *

(2)(i) * * *

(ii) It is administered intravenously. Intravenous injections must be given slowly to avoid symptoms of overdosage. Dosage may be repeated every 6 to 12 hours if necessary. Horses, 40 to 60 milligrams per 100 pounds body weight; foals, 20 milligrams per 100 pounds body weight.[1]

* * * * *

Dated: November 5, 1986.

Gerald B. Guest,

Acting Director, Center for Veterinary Medicine.

[FR Doc. 86-25814 Filed 11-14-86; 8:45 am]

BILLING CODE 4160-01-M

[1] These conditions are NAS/NRC reviewed and deemed effective. Applications for these uses need not include effectiveness data as specified by § 514.111 of this chapter, but may require bioequivalency and safety information.

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

Occupational Safety and Health Standards; Air Contaminants; Cotton Dust

CFR Correction

§ 1910.1000 [Corrected]

In 29 CFR 1910.1000, Table Z-1, in the Code of Federal Regulations volume Parts 1900-1910, revised as of July 1, 1986, on page 656, the entry for cotton dust (raw) should read as follows:

Substance	p/m[a]	mg./M[3][b]
* * * * *		
Cotton dust (raw)		1[c]
* * * * *		

[a] Parts of vapor or gas per million parts of contaminated air by volume at 25 °C. and 760 mm. Hg. pressure.

[b] Approximate milligrams of particulate per cubic meter of air.

* * * * *

[c] This 8 hour time weighted average is for respirable dust as measured by a vertical elutriator cotton dust sampler or equivalent instrument. This time weighted average applies to the cotton waste processing operations of waste recycling (sorting, blending, cleaning, and willowing) and garnetting.

The entry appeared correctly when it was originally published in the **Federal Register** on December 13, 1985 at 50 FR 51173.

BILLING CODE 1505-02-M

DEPARTMENT OF DEFENSE

Department of the Navy

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that Side Loadable Warping Tugs SLWT-2 and SLWT-3 are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS without interfering with their special functions as naval warping tugs. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 28, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P.C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, and Executive Order 11964, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that Side Loadable Warping Tugs SLWT-2 and SLWT-3 are vessels of the Navy which, due to their special construction and purpose, cannot comply fully with 72 COLREGS, Rule 21(a), pertaining to the centerline location of the masthead lights, and Annex I, section 3(b), pertaining to the location of the sidelights, without interfering with their special function as Navy ships. The Secretary of the Navy has also certified that the aforementioned lights are located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR Parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on these vessels in a manner differently from that prescribed herein will adversely affect the ships' ability to perform their military functions.

List of Subjects in 31 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Two of § 706.2 is amended by adding the following vessels:

Vessel No.	Masthead lights, distance to stbd of keel in meters; Rule 21(a)	Forward anchor light, distance below flight dk in meters; 2(k), Annex	Forward anchor light, number of; Rule 30(a)(i)	AFT anchor light, distance below flight dk in meters; Rule 21(e), Rule 30(a)(ii)	AFT anchor light, number of Rule 30(a)(ii)	Side lights, distance below flight dk in meters; 2(g), Annex I	Side lights, distance forward of forward masthead light in meters; 3(b) Annex I	Side lights, distance inboard of ship's sides in meters; 3(b) Annex I
SLWT 2	1.62							3.93
SLWT 3	1.62							3.93

[2] Port sidelight only.

Dated: October 28, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-25850 Filed 11-14-86; 8:45 am]

BILLED CODE 3810-AE-M

32 CFR Part 706

Certifications and Exemptions Under the International Regulations for Preventing Collisions at Sea, 1972; Amendment

AGENCY: Department of the Navy, DoD.

ACTION: Final rule.

SUMMARY: The Department of the Navy is amending its certifications and exemptions under the International Regulations for Preventing Collisions at Sea, 1972 (72 COLREGS), to reflect that the Secretary of the Navy has determined that USS ANTIETAM (CG 54) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS without interfering with its special function as a naval cruiser. The intended effect of this rule is to warn mariners in waters where 72 COLREGS apply.

EFFECTIVE DATE: October 28, 1986.

FOR FURTHER INFORMATION CONTACT: Captain P. C. Turner, JAGC, U.S. Navy, Admiralty Counsel, Office of the Judge Advocate General, Navy Department, 200 Stovall Street, Alexandria, VA 22332-2400, Telephone number: (202) 325-9744.

SUPPLEMENTARY INFORMATION: Pursuant to the authority granted in 33 U.S.C. 1605, the Department of the Navy amends 32 CFR Part 706. This amendment provides notice that the Secretary of the Navy has certified that USS ANTIETAM (CG 54) is a vessel of the Navy which, due to its special construction and purpose, cannot comply fully with 72 COLREGS: Annex I, section 3(a), pertaining to the location of the forward masthead light in the forward quarter of the ship, and Annex I, section 3(a), pertaining to the horizontal distance between the forward and after masthead lights. Full compliance with the above-mentioned 72 COLREGS rule would interfere with the special function and purpose of the vessel. The Secretary of the Navy has also certified that the above-mentioned light is located in closest possible compliance with the applicable 72 COLREGS requirements.

Moreover, it has been determined, in accordance with 32 CFR parts 296 and 701, that publication of this amendment for public comment prior to adoption is impracticable, unnecessary, and contrary to public interest since it is based on technical findings that the placement of lights on this vessel in a manner differently from that prescribed herein will adversely affect the vessel's ability to perform its military functions.

List of Subjects in 32 CFR Part 706

Marine safety, Navigation (water), Vessels.

PART 706—[AMENDED]

Accordingly, 32 CFR Part 706 is amended as follows:

1. The authority citation for 32 CFR Part 706 continues to read:

Authority: 33 U.S.C. 1605.

§ 706.2 [Amended]

1. Table Five of § 706.2 is amended by adding the following vessel:

Vessel	Number	Forward masthead light less than the required height above hull. Annex I, sec. 2(a)(i)	Aft masthead light less than 4.5 meters above forward masthead light. Annex I, sec. 2(a)(ii)	Masthead lights not over all other lights and obstructions. Annex I, sec. 2(f)	Vertical separation of masthead lights used when towing less than required by Annex I, sec. 2(a)(i)	Aft masthead lights not visible over forward light 1,000 meters ahead of ship in all normal degrees of trim. Annex I, sec. 2(b)	Forward masthead light not in forward quarter of ship. Annex I, sec. 3(a)	After masthead light less than ½ ship's length aft of forward masthead light. Annex I, sec. (3)(a)	Percentage horizontal separation attained
USS ANTIETAM	CG 54						X	X	38

Dated: October 28, 1986.

Approved:

John Lehman,

Secretary of the Navy.

[FR Doc. 86-25851 Filed 11-14-86; 8:45 am]

BILLING CODE 3810-AE-M

DEPARTMENT OF TRANSPORTATION

Coast Guard

33 CFR Part 117

[CGD5-86-024]

Temporary Drawbridge Operation Regulations; Bridge Across Atlantic Intracoastal Waterway, Bogue Sound, at Atlantic Beach, NC

AGENCY: Coast Guard, DOT.

ACTION: Temporary rule with request for comments.

SUMMARY: At the request of the North Carolina Department of Transportation the Coast Guard is issuing temporary regulations for the drawbridge across the Atlantic Intracoastal Waterway at mile 206.7, Bogue Sound, at Atlantic Beach, North Carolina, to provide hourly openings from 7 a.m. to 7 p.m. for

pleasure craft during construction of an adjacent fixed bridge. Public comments on the temporary rule are requested. The temporary rule may be amended based on those comments.

DATES: This temporary regulation becomes effective on October 27, 1986. It terminates on March 14, 1987. Comments must be received on or before November 21, 1986.

ADDRESSES: Comments may be mailed to: Commander (oan), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004. Comments will also be available for inspection and copying at Room 609 of the above address. Normal office hours are between 8:00 a.m. and 4:30 p.m. Monday through Friday except holidays.

FOR FURTHER INFORMATION CONTACT: Ann B. Deaton, Bridge Administrator, Fifth Coast Guard District, telephone number: (804) 398–6222.

SUPPLEMENTARY INFORMATION: In accordance with 5 U.S.C. 553, a notice of proposed rulemaking was not published for this regulation and good cause exists for making it effective in less than 30 days after **Federal Register** publication. Publishing an NPRM and delaying its effective date would be contrary to public interest since immediate action is needed to reduce the highway traffic congestion in the vicinity of the bridge across the Atlantic Intracoastal Waterway, Bogue Sound, at Atlantic Beach, North Carolina, during construction of an adjacent fixed bridge. The North Carolina Department of Transportation did not request the issuance of these temporary regulations until October 10, 1986.

Interested persons are invited to participate in this rulemaking by submitting written views, comments, data, or arguments. Persons submitting comments should include their names and addresses, identifying the bridge, and give reasons for concurrence with or any recommended change in the temporary rule.

The Commander, Fifth Coast Guard District, will evaluate all communications received and determine whether the temporary rules should be changed in light of comments received.

Drafting Information

The drafters of this notice are Ann B. Deaton, project officer, and CDR Robert J. Reining, project attorney.

Discussion of Temporary Rule

At the request of North Carolina Department of Transportation the Coast Guard is issuing temporary regulations for the drawbridge across the Atlantic Intracoastal Waterway at mile 206.7, Bogue Sound, at Atlantic Beach, North Carolina, to provide hourly openings from 7 a.m. to 7 p.m. for pleasure craft during construction of an adjacent fixed bridge.

The project contractor for the North Carolina Department of Transportation, owner of the bridge, is reconstructing the existing approaches to the drawbridge to tie them into the new fixed bridge. This work has necessitated the closure of two traffic lanes of the four lane roadway. Massive highway traffic jams have resulted from the lane closures. Random, uncontrolled openings of the drawbridge have aggravated the situation.

This drawbridge currently is required to open on signal from October 16 through March 14. Implementation of the hourly opening schedule will alleviate some of the hardship on area motorists, while providing for the reasonable needs of navigation.

Economic Assessment and Certification

These temporary regulations are considered to be non-major under Executive Order 12291 on Federal Regulation and non-significant under the Department of Transportation regulatory policies and procedures (44 FR 11034; February 26, 1979).

The economic impact of the temporary regulation is expected to be so minimal that a full regulatory evaluation is unnecessary. The temporary regulations will only impede the passage of recreational vessels. The bridge will continue to open on signal for commercial vessels, public vessels, and any vessel in an emergency.

Since the economic impact of these temporary regulations is expected to be minimal, the Coast Guard certifies that, it will not have a significant economic impact on a substantial number of small entities.

List of Subjects in 33 CFR Part 117

Bridges.

Temporary Regulations

In consideration of the foregoing, Part 117 of Title 33, Code of Federal Regulations is temporarily amended as follows:

PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

Authority: 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–01(g).

2. Paragraph (a) of § 117.821 is temporarily revised to read as follows:

§ 117.821 Atlantic Intracoastal Waterway, Bogue Sound to Wrightsville Beach.

(a) The draw of the S58 bridge, mile 206.7 at Atlantic Beach, Bogue Sound shall open on signal; except that from October 27, 1986 through March 14, 1987, the draw need be opened only on the hour from 7 a.m. to 7 p.m. for the passage of pleasure craft. If a pleasure craft is approaching the draw and cannot reach the draw exactly on the hour, the drawtender may delay the opening up to 10 minutes past the hour for the passage of the approaching vessel and any other vessels that are waiting. Public vessels of the United States, tugs with tows, commercial vessels, and any vessel in an emergency involving danger to life or property shall be passed at any time.

* * * * *

This temporary rule becomes effective on October 27, 1986. It terminates on March 14, 1987.

Dated: October 24, 1986.

B.F. Hollingsworth,

Rear Admiral, U.S. Coast Guard, Commander, Fifth Coast Guard District.

[FR Doc. 86–25863 Filed 11–14–86; 8:45 am]

BILLING CODE 4910–14–M

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33 CFR Part 165

[COTP Miami, FL Regulation CCGD7–86–49]

Safety Zone Regulations; Safe Harbor, Stock Island, FL

AGENCY: Coast Guard, DOT.

ACTION: Emergency rule.

SUMMARY: The Coast Guard is establishing a Safety Zone around a mock-up submarine in position 24–33.25N, 081–44.06W Safe Harbor, Stock Island, FL. This Zone is needed to protect swimmers, pleasure boaters, commercial vessels from safety hazards associated with the submarine and film crew vessels. The submarine will be marked in accordance with Navigation Rule 30 as a vessel aground when filming is not in progress. A vessel provided by the owner will remain in the area at all times to direct traffic.

EFFECTIVE DATES: This regulation becomes effective on 26 November 1986

at 00:01 am. It terminates at 12:59 pm on 17 December 1986, or upon the completion of the work, whichever occurs first.

FOR FURTHER INFORMATION CONTACT: CWO3 P.J. MacDonald, c/o Commanding Officer, U.S. Coast Guard, Marine Safety Office, Miami, FL. 33130, Tel (305) 536–5691.

SUPPLEMENTARY INFORMATION: A notice of proposed rulemaking was not published for this regulation and it is being made effective in less than 30 days after **Federal Register** publication. Publishing a NPRM and delaying its effective date would be contrary to the public interest since immediate action is needed to prevent potential hazards to the vessels transiting the area of temporary underwater operation during filming.

Drafting Information

The drafters of this regulation are CWO3 P.J. MacDonald, project officer for the Captain of the Port, and LCDR S. Fuger, project attorney, Seventh Coast Guard District Legal Office.

Discussion of Regulation

The event requiring this regulation is the temporary underwater operations during filming of a submarine which is a possible hazard to navigation. This regulation is issued pursuant to 50 U.S.C. 191 as set out in the authority citation for all of Part 165

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Security measures, Vessels, Waterways.

Regulation

In consideration of the foregoing, Subpart D of Part 165 of Title 33 Code of Federal Regulations, is amended as follows:

PART 165—[AMENDED]

1. The authority citation of Part 165 continues to read as follows:

Authority: 33 U.S.C. 1225 and 1231; 50 U.S.C. 191; 49 CFR 1.46 and 33 CFR 1.05–1(g), 6.04–6 and 160.5.

2. A new § 165.T–07–86–33 is added to read as follows:

§ 165.T–07–86–33 Safety Zone: Submarine in position 24–33.05N, 081–44.06W, adjacent to Safe Harbor, Stock Island, FL.

(a) *Location.* The following area is a Safety Zone: The waters around position 24–33.05N, 081–44.06W extending for a clear radius of 100 feet in any direction.

(b) *Effective date.* This regulation becomes effective on November 26, 1986. It terminates on December 17, 1986.

(c) *Regulations.* (1) In accordance with the general regulation in Subpart 165.33 of this part, entry into this Zone is prohibited unless authorized by the Captain of the Port.

Dated: November 1, 1986.

C.C. Martin,

Captain, U.S. Coast Guard, Captain of the Port, Miami, Florida.

[FR Doc. 86–25864 Filed 11–14–86; 8:45 am]

BILLING CODE 4910–14–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 261

[SW–FRL–3112–6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusion

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule and notice of data availability with request for comments.

SUMMARY: The Environmental Protection Agency (EPA) today is granting a final exclusion for the solid wastes generated at one particular generating facility from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to a delisting petition received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at this facility from listing as hazardous wastes under 40 CFR Part 261.

In addition to the final conditional exclusion, the Agency is also announcing the availability of data submitted in support of the petition granted by today's notice. These data were used in the evaluation of this delisting petition and are available in the public docket for comment.

EFFECTIVE DATE: The effective date of this final exclusion is November 17, 1986. EPA will accept public comments on the information and data available in the public docket as it relates to the final exclusion published in this notice until December 17, 1986.

ADDRESSES: The public docket for this final rule is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC, 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–TEEF–FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424–9346, or (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–563), U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION: On March 6, 1986, EPA proposed to exclude specific wastes generated by several facilities, including Tennessee Electroplating, located in Ripley, Tennessee (see 51 *FR* 7827).[1] This action was taken in response to a petition submitted by this company (pursuant to 40 CFR 260.20 and 260.22) to exclude its wastes from hazardous waste control. In their petition, this company has argued that certain of their wastes were non-hazardous based upon the criteria for which the waste was listed. The petitioner has also provided information which has enabled the Agency to determine whether any other toxicants are present in the waste at levels of regulatory concern. The purpose of today's actions is to make final the proposal and to make our decision effective immediately. More specifically, today's rule allows this facility to manage its petitioned waste as non-hazardous. The exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[2] In addition, the

[1] In the same **Federal Register** notice, the Agency also proposed to exclude specific wastes generated by the following petitioners: Chamberlain-Featherlite, Inc., located in Hot Springs, Arkansas (see 51 *FR* 7817); Falconer Glass Industries, Inc., located in Falconer, New York (see 51 *FR* 7819); Lake City Army Ammunition Plant, located in Independence, Missouri (see 51 *FR* 7820); Loxcreen Supply Co., located in Hayti, Missouri (see 51 *FR* 7822); Olin Corp., located in Augusta, Georgia (see 51 *FR* 7824); SR of Tennessee, located in Ripley, Tennessee (see 51 *FR* 7825); and Valley City Steel Co., located in Valley City, Ohio (see 51 *FR* 7829). The Agency has addressed or will address these proposed decisions in separate **Federal Register** notices.

[2] The current exclusion applies only to the process covered by the original demonstration. A facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however until a new exclusion is granted.

generator still is obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

The Agency notes that the petitioner granted a final exclusion in today's **Federal Register** has been reviewed for both the listed and non-listed criteria. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the waste for the listed constituents of concern as well as for all other factors (including additional constituents) for which there was a reasonable basis to believe that they could cause the waste to be hazardous. The petitioner has demonstrated through submission of raw materials data, EP toxicity test data for all EP toxic metals, and test data on the four hazardous waste characteristics that their wastes do not exhibit any of the hazardous waste characteristics, and do not contain any other toxicants at levels of regulatory concern.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, any States which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[3] To date only one State (Georgia) has received approval for their delisting program. The final exclusion granted today, therefore, is issued under the Federal program. States, however, can still decide whether to exclude these wastes under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), this petitioner is urged to contact its State regulatory authority to determine the current status of its wastes under State law.

[3] RCRA Reauthorization Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions, May 16, 1985, Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste Emergency Response.

The exclusion made final here involves the following petitioner:

Tennessee Electroplating, Ripley, Tennessee.

I. Tennessee Electroplating

A. Proposed Exclusion

Tennessee Electroplating has petitioned the Agency to exclude its wastewater treatment sludge (filter press and impoundment sludges) from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Tennessee Electroplating substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Tennessee Electroplating indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 7827–7829, March 6, 1986, for a more detailed explanation of why EPA proposed to grant Tennessee Electroplating petition.)

B. Agency Response to Public Comments

The Agency received comments from a single commenter regarding its decision to grant an exclusion to Tennessee Electroplating for the waste identified in the petition. The commenter questioned the Agency's use of the extraction procedure to evaluate the potential mobility of constituents in the waste. Other factors which could increase metal mobility were cited, such as low pH or chelating agents in a sanitary landfill. The Agency's approach assumes a reasonable worst case scenario in an unlined municipal landfill for the VHS model. Such a modeling scenario is conservative in that mechanisms that may limit constituent concentrations in ground water, *e.g.*, attenuation, are assumed not to enter into the scenario. The Agency believes that our reasonable worst-case model is consistent, and in the case of Tennessee Electroplating the Agency believes that use of this reasonable worst-case model is sufficient to evaluate potential impacts on human health and the environment. No evidence has been presented to the Agency to indicate the presence of low pH or chelating agents at the Tennessee Electroplating site, or to otherwise show that the Agency's reasonable worst-case scenario would not be sufficiently rigorous to properly evaluate Tennessee Electroplating's waste.

In order to model specific chemical interactions (such as those discussed by the commenter), site-specific data for a particular landfill would be necessary. Evaluation of wastes under the delisting program, however, is not specific to a single disposal site. Once delisted, there is no guarantee that the waste would be disposed of according to a particular set of site-specific conditions. The Agency further notes that use of the EP toxicity test in the VHS model analysis was open for public comment (see 50 FR 7882–7900, February 26, 1985) and these comments were addressed (see 50 FR 48886–48967, November 27, 1985). The Agency believes these responses adequately address any specific concerns raised by this commenter.

The commenter also noted that the value of 0.82 ppm, instead of 0.99 ppm, was mistakenly used as the maximum value for chromium in the vacuum filter sludge. The Agency agrees with the commenter.

Use of the 0.99 value would result in a compliance point value of 0.053 ppm. An application of the Dixon Extreme Value test indicates that it is not an outlier. Results are available, however, for 73 additional filter press sludge samples which were collected since the original petition was submitted.[4] Since the data distribution of the 77 point data set was log normal, and 77 data points collected over a two year period are considered to be representative of the waste variability and is a large enough data set to consider a value other than the maximum, the concentration corresponding to the median of these log normal values can be used in the model. This results in a compliance point value of 0.01 ppm, which is below the regulatory standard.

The commenter questioned using the mean EP value in the VHS model for evaluating lagoon sludge (especially where, as here, no groundwater monitoring data was available). The Agency agrees with the commenter. The eight composite samples originally submitted for the lagooned waste do not

[4] Additional data were submitted on October 27, 1986, by Tennessee Electroplating for both the filter press sludge and impoundment sludge. These data were requested by the Agency as a result of the comments received on the proposed exclusion. Since these data were not available for inclusion in the public docket for the proposed rule, the Agency is allowing for a 30 day comment period to enable the public to review these data and submit comments on the applicability of these data as they relate to the Agency's final decision published in today's notice. If the Agency receives comments which substantiate a final decision other than the one published in today's notice, the Agency intends to publish a future notice addressing such comments and make a final decision considering the comments received.

comprise a large enough data set to allow the use of any value other than the maximum extract value for chromium. Using the maximum EP value instead of the mean results in a value of 0.06 ppm chromium at the compliance point which fails the VHS analysis. Tennessee Electroplating has, however, submitted EP toxicity data on the 48 individual sub-samples used to create the original composites. The Agency believes that this data set is large enough to allow the use of a mean rather than a maximum EP extract value in the VHS model.

The Agency has established in past notices that statistical parameters other than the maximum may be used in waste evaluation if adequate numbers of waste samples have been provided. Without any prior assumption about the statistical distribution of any waste, a non-parametric evaluation of a waste would require approximately 45 samples to achieve a degree of certainty satisfactory to the Agency to allow consideration of alternative statistics, *e.g.*, mean.[5] The number of samples submitted by Tennessee Electroplating (*i.e.*, 74) are sufficient to satisfy any non-parametric requirements, and are also sufficient to establish that the leachate concentrations are distributed as a log-normal distribution. Due to the existence of the log-normal distribution, use of a median (instead of a maximum) value is appropriate in this instance. After mathematic conversion to calculate mean values for each constituent from log-normal median values, the resulting mean chromium value is 0.177 ppm.[6] This generates a compliance point value of 0.028 ppm which is less than the regulatory standard of 0.05 ppm.

The commenter also noted that the state never required ground water monitoring although the temporary exclusion did not cover the lagoon. The commenter suggested that EPA should not grant delistings to facilities that do not have adequate groundwater monitoring systems. The Agency agrees that the evaluation of groundwater monitoring data is a useful measure of a waste's degree of hazard. Data submitted for one downgradient well indicated nickel, chromium, and cadmium were not detected in the groundwater. In general, facilities petitioning for exclusion of a waste managed in an on-site land disposal unit or exclusion of a land disposal unit are expected to be in compliance with the requirements of 40 CFR Part 264 or 265 and must submit any ground water monitoring data collected as a result of those requirements. However, because many petitioners with final and temporary exclusions have not, under the regulations, been required to have monitoring systems in place, these petitioners, as well as facilities that have received a waiver from the groundwater monitoring requirements will, as a matter of policy, be considered for exclusion without this ground water monitoring data.

The final point discussed by the commenter addressed the fact that Tennessee Electroplating and SR of Tennessee may both use the same sanitary landfill for disposing of delisted wastes.

The commenter argued that the volumes of sludge from the two facilities should be added and the total volume used as the input to the VHS model. Under the delisting program, the Agency cannot insure how the waste will be managed after an exclusion has been granted. The delisting process, therefore, cannot predict which landfill will be used for disposal of a waste or account for other wastes with which the subject wastes may be disposed. The delisting, therefore, applies to the filter cake as generated, which is to be disposed in a landfill. The decision is not predicated, however, on which landfill is used. This interpretation of applicability is important to the petitioner in that since the decision is based on the waste, the waste can be landfilled at any location, enabling the petitioner to change the landfill used at any time (*e.g.*, due to variation in tipping fees). The VHS model is volume specific only in terms of the annual generation rate for each petitioner. The Agency has indicated previously (see 50 *FR* 7900, February 26, 1985) that the Agency and the VHS model cannot account for synergistic effects created by wastes disposed of by different generators at the same landfill.

The reasonable worst-case landfill scenario assumes that 5% of the waste at a landfill will consist of industrial waste. This assumption was used in the development of the EP leachate test. That the commenter has identified some other source of industrial waste does not suggest that the 5% assumption is incorrect.

The Agency will review its policy regarding this issue, but at the present has no means to incorporate co-use of the same landfill into its evaluation.[7] The Agency has formulated the VHS model to approximate a reasonable worst-case scenario in a Subtitle D facility, and the model makes several conservative assumptions about site geometry and aquifer movement. In order for the Agency to develop a new modeling scenario based on co-disposal of a similar waste (which would increase the waste volume and so decrease the dilution factor assigned to the evaluated waste), the Agency would need to cross-reference wastes being disposed at every disposal facility in the United States. Under the commenter's recommendation, the Agency would have to designate acceptable landfills to receive each delisted waste. This alternative is unacceptable to the Agency since it would impose an impossible administrative burden.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the filter press sludge generated by Tennessee Electroplating is non-hazardous and as such should be excluded from hazardous waste control. Additional data were received on October 27, 1986 which further support Tennessee Electroplating's contention that their waste is non-hazardous. This data was submitted as a result of the comments received on the proposed exclusion. The Agency, therefore, is granting a final conditional exclusion to Tennessee Electroplating for its wastewater treatment sludge (EPA Hazardous Waste No. F006) generated at Tennessee Electroplating's Hazardous Waste No. F006) generated at Tennessee Electroplating's Ripley, Tennessee facility.

The condition of the exclusion requires continuous batch testing of the filter press sludge for chromium for 45 days. This testing requirement is self-implemented, that is, the results of testing each batch need not be reviewed by State or Federal EPA representatives prior to disposal. The test data, however, must be recorded and kept on file at the facility for inspection

[5] See Morse, M., J. Warren, and W. Sproat, 1986. Sampling and analysis for delisting data verification/delisting spot checks. From Proceedings of the Second U.S. EPA Symposium on Solid Waste Testing and Quality Assurance, July 15–18, 1986. Washington, DC (copy provided in public docket for this notice). This paper provides some initial guidance on the factors which the Agency believes may be important in using non-parametric statistical techniques to determine the sample size that will allow the use of values other than the maximum in the VHS analyses. The Agency intends to publish more formal guidance on this issue in the future.

[6] These data were contained in the October 27, 1986 submission by Tennessee Electroplating. See footnote 4.

[7] The Agency notes that additional EP toxicity test data from Tennessee Electroplating has been submitted. This data involves in excess of 75 data points taken over a two year period. A statistical analysis of this data would allow the use of the median value rather than a maximum. Even if the combined volume for the two facilities is used, this petition would still pass the VHS evaluation.

purposes. Each batch of treatment residue must be representatively sampled and tested using the EP toxicity test for chromium.[8] If the extract levels exceed 0.922 ppm of chromium the waste must be managed and disposed of as a hazardous waste under 40 CFR Parts 262 to 268 and the permitting standards of 40 CFR Part 270. The Agency believes this testing requirement is necessary during the comment period for the data received on October 27, 1986. If the data indicates that leachable chromium is frequently present at levels above 0.922 ppm, the Agency will either propose to continue monitoring the waste under the conditions of the exclusion or propose to deny the exclusion.

(The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[9] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

The final conditional exclusion does not apply to the sludge contained in the impoundment.[10] The Agency is deferring its decision on delisting the impounded sludge until comments are received on the additional data submitted by Tennessee Electroplating. This deferral will not place any additional burden on the petitioner because the impounded wastes presently are hazardous and must continue to be handled as hazardous until a delisting is granted.

II. Effective Date

This rule is effective immediately. Although Subtitle C regulations normally take effect six months after promulgation (RCRA section 3010(b)), the Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioner by an effective date six months after promulgation, and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that this rule should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

III. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This grant of an exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at a specific facility from EPA's lists of hazardous wastes, thereby enabling this facility to treat its wastes as non-hazardous.

IV. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effects will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Dated: November 6, 1986.

Jeffery D. Denit,

Acting Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Appendix IX, add the following wastestreams in alphabetical order to Table 1 to read as follows:

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
•	• •	• •
Tennessee Electroplating.	Ripley, Tennessee.	Dewatered wastewater treatment sludges (EPA Hazardous Waste Nos. F006) generated from electroplating operations after November 17, 1986. To ensure chromium levels do not exceed the regulatory standards there must be continuous batch testing of the filter press sludge for chromium for 45 days after the exclusion is granted. Each batch of treatment residue must be representatively sampled and tested using the EP toxicity test for chromium. This data must be kept on file at the facility for inspection purposes. If the extract levels exceed 0.922 ppm of chromium the waste must be managed and disposed of as hazardous. If these conditions are not met, the exclusion does not apply. This exclusion does not apply to sludges in any on-site impoundments as of this date.

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[8] The Agency is defining "batch" as the volume of waste generated for periodic disposal.

[9] See footnote 2.

[10] The impounded sludge was not covered under the temporary delisting granted to Tennessee Electroplating. Therefore, the waste contained in the impoundment is still considered hazardous until the comments are addressed from today's announced 30 day comment period, and should be managed in accordance with the RCRA hazardous waste regulations.

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40 CFR Part 261

[SW-FRL-3112-4]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusions

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting final exclusions for the solid wastes generated at four particular generating facilities from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at these facilities from listing as hazardous wastes under 40 CFR Part 261.

EFFECTIVE DATE: November 17, 1986.

ADDRESSES: The public docket for this final rule is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC, 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–CPEF–FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424–9346, or (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460 (202) 382–5096.

SUPPLEMENTARY INFORMATION: On October 9, 1986, EPA proposed to exclude specific wastes generated by four facilities, including: (1) Capitol Products Corporation, located in Kentland, Indiana (see 51 FR 36234); (2) Lincoln Plating Company, located in Lincoln, Nebraska (see 51 FR 36245); (3) Maytag Corporation, located in Newton, Iowa (see 51 FR 36247); and (4) Windsor Plastics, Incorporated, located in Evansville, Indiana (see 51 FR 36249). These actions were taken in response to petitions submitted by these companies (pursuant to 40 CFR 260.20 and 260.22) to exclude their wastes from hazardous waste control. In their petitions, these companies have argued that certain of their wastes were non-hazardous based upon the criteria for which the waste was listed. The petitioners have also provided information which has enabled the Agency to determine whether any other toxicants are present in the wastes at levels of regulatory concern. The purpose of today's actions is to make final the four proposals and to make our decisions effective immediately. More specifically, today's rule allows these facilities to manage their petitioned wastes as non-hazardous. The exclusions remain in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[1] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

The Agency notes that the petitioners granted final exclusions in today's **Federal Register** have been reviewed for both the listed and non-listed criteria. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the wastes for the listed constituents of concern as well as for all other factors (including additional constituents) for which there was a reasonable basis to believe that they could cause the waste to be hazardous. These petitioners have demonstrated through submission of raw materials data, EP toxicity test data for all EP toxic metals, and test data on the four hazardous waste characteristics that their wastes do not exhibit any of the hazardous waste characteristics, and do not contain any other toxicants at levels of regulatory concern.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, any States which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[2] To date only one State (Georgia) has received approval for their delisting program. The final exclusions granted today, therefore, are issued under the Federal program. States, however, can still decide whether to exclude these wastes under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

The exclusions made final here involve the following petitioners:

Capitol Products Corporation, Kentland, Indiana;
Lincoln Plating Company, Lincoln, Nebraska;
Maytag Company, Newton, Iowa;
Windsor Plastics, Incorporated, Evansville, Indiana.

I. Capitol Products Corporation

A. Proposed Exclusion

Capitol Products Corporation (Capitol) has petitioned the Agency to exclude its wastewater treatment sludge (vacuum filter sludge) from EPA Hazardous Waste No. F019, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Capitol substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Capitol indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 36243–36245, October 9, 1986, for a more detailed explanation of why EPA proposed to grant Capitol's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Capitol for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the vacuum filter sludge is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Capitol Products Corporation for its dewatered wastewater treatment sludge (vacuum filter sludge) resulting from the chemical conversion coating of aluminum, listed as EPA Hazardous Waste No. F019, generated at its Kentland, Indiana facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[3] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

[1] The current exclusions apply only to the processes covered by the original demonstrations. A facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new exclusion is granted.

[2] RCRA Reauthorization Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions, May 16, 1985, Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

[3] See footnote 1.

II. Lincoln Plating Company

A. Proposed Exclusion

Lincoln Plating (Lincoln), has petitioned the Agency to exclude its wastewater treatment sludge (filter cake and portland cement mixture) from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Date submitted by Lincoln substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Lincoln indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 36245–36247, October 9, 1986, for a more detailed explanation of why EPA proposed to grant Lincoln's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Lincoln for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the filter cake and portland cement mixture is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Lincoln for its wastewater treatment sludge (EPA Hazardous Waste No. F006) generated at Lincoln, Nebraska facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[4] In addition generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

III. Maytag Company

A. Proposed Exclusion

Maytag Company (Maytag) has petitioned the Agency to exclude its wastewater treatment sludge (vacuum filter sludge) from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Maytag substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Maytag indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 36247–36249, October 9, 1986, for a more detailed explanation of why EPA proposed to grant Maytag's petition.)

B. Agency Response to Public Comments

The Agency did not receive any public comments regarding its decision to grant an exclusion to Maytag for the waste identified in its petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the dewatered sludge is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Maytag for its wastewater treatment sludge (EPA Hazardous Waste No. F006) generated at Maytag's Newton, Iowa, facility.[5] (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[6] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

IV. Windsor Plastics, Inc.

A. Proposed Exclusion

Windsor Plastics (Windsor) has petitioned the Agency to exclude its treatment sludge (drummed sludge) from EPA Hazardous Waste No. F003, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Windsor substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Windsor indicate that no other hazardous constitutes are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 36249–36252, October 9, 1986, for a more detailed explanation of why EPA proposed to grant Windsor's petition.)

B. Agency Response to Public Comments

The Agency received additional information from Windsor in response to the Agency's earlier request for information on three organic constituents (methylene chloride, benzene, and trichloroethylene) in Windsor's still bottom waste. Data for twenty samples was submitted to support Windsor's claim that these constituents are of no regulatory concern.

Benzene was not detected in the waste samples at a detection limit of <0.75 mg/kg, and trichloroethylene was not detected at a limit of <1 mg/kg. Methylene chloride was detected in only six of twenty samples, at a maximum concentration of 39 mg/kg. If this value is used in the Agency's organic leaching model (OLM) and vertical and horizontal spread (VHS) model,[7] the resultant maximum compliance-point concentration is 0.031 mg/l, which is below the Agency's standard of 0.056 mg/l for methylene chloride. These three organic constituents have been shown to be present at consistently low concentrations in Windsor's waste, and the Agency, therefore, does not consider these constituents to be of regulatory concern.

C. Final Agency Decision

For the reasons stated in the proposal, and in the Agency's response to public comments, the Agency believes that the drummed sludge is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to Windsor for its wastewater treatment sludge (EPA Hazardous Waste No. F003) generated at its Evansville, Indiana facility. (The Agency notes that the exclusion remains in effect unless the waste varies from the originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process.[8] In

[4] See footnote 1

[5] On November 6, 1986, Maytag expanded its petition to include EPA Hazardous Waste No. F019—Wastewater treatment sludges from the chemical conversion coating of aluminum. Maytag has previously considered conversion coating as an electroplating operation and had assumed that wastewater treatment sludges from this operation were described by EPA Hazardous Waste No. F006—Wastewater treatment sludges from electroplating operations. In fact, all of the constituents of concern in Waste No. F019 are included in the constituents of concern in Waste No. F006. In addition, none of the wastewater treatment sludges from any of Maytag's production and wastewater treatment processes are segregated.

[6] See footnote 1.

[7] The OLM model was proposed on November 27, 1985 (see 50 FR 48886, appendix). As a result of public comment, two alternate versions were proposed in a Notice of Data Availability on July 29, 1986 (see 51 FR 27061). The "best-fit" version was used in Windsor's evaluation. The VHS model was published in final form on November 27, 1985 (see 50 FR 48886).

[8] See footnote 1.

addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

V. Effective Date

This rule is effective immediately. Although Subtitle C regulations normally take effect six months after promulgation (RCRA section 3010(b)), the Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioners by an effective date six months after promulgation, and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that this rule should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

VI. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This grant of exclusion is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's lists of hazardous wastes, thereby enabling these facilities to treat their wastes as non-hazardous.

VII. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effects will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Dated: November 4, 1986.

Jeffery D. Denit,

Acting Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—INDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976 as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Appendix IX, add the following wastestreams in alphabetical order to table 1 to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste Description
*	* *	* *
Capitol Products Corporation.	Kentland, IN	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum after November 17, 1986.
*	* *	* *
Lincoln Plating Company.	Lincoln, NE	Wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations after November 17, 1986.
Maytag Company.	Newton, IA	Wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations and wastewater treatment sludges (EPA Hazardous Waste No. F019) generated from the chemical conversion coating of aluminum November 17, 1986.
*	* *	* *
Windsor Plastics, Inc.	Evansville, IN	Spent non-halogenated solvents and still bottoms (EPA Hazardous Waste No. F003) generated from the recovery of acetone after November 17, 1986.

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40 CFR Part 261

[SW-FRL-3112-5]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusions

AGENCY: U.S. Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting final exclusions for the solid wastes generated at two particular generating facilities from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at these facilities from listing as hazardous wastes under 40 CFR Part 261.

EFFECTIVE DATE: November 17, 1986.

ADDRESSES: The public docket for this final rule is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–SREF–FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424–9346, or (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION: On March 6, 1986, EPA proposed to exclude specific wastes generated by several facilities, including S–R of Tennessee, located in Ripley, Tennessee (see 51 FR 7815);[1] and on May 6, 1986, EPA

[1] In the same Federal Register notice, the Agency also proposed to exclude the wastes generated by the following petitioners: Chamberlain-Featherlite, Inc., located in Hot Springs, Arkansas (see 51 FR 7817); Falconer Glass Industries, Inc., Falconer, New York (see 51 FR 7819); Lake City Army Ammunition Plant, located in Independence, Missouri (see 51 FR 7820); Loxcreen Company, Inc., located in Hayti, Missouri (see 51 FR 7822); Olin Corp., located in Augusta, Georgia (see 51 FR 7824); Tennessee

Continued

proposed to exclude specific wastes generated from several other facilities, including Vulcan Materials company, located in Port Edwards, Wisconsin (see 51 FR 16860).[2] These actions were taken in response to petitions submitted by these companies (pursuant to 40 CFR 260.20 and 260.22) to exclude their wastes from hazardous waste control. In their petitions, these companies have argued that certain of their wastes were non-hazardous based upon the criteria for which the wastes were listed. The petitioners have also provided information which has enabled the Agency to determine whether any other toxicants are present in the wastes at levels of regulatory concern. The purpose of today's actions is to make final both of these proposals and to make our decisions effective immediately. More specifically, today's rule allows these facilities to manage their petitioned wastes as non-hazardous. The exclusions remain in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment or process.[3] The generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

The Agency notes that the petitioners granted final exclusions in today's **Federal Register** have been reviewed for both the listed and non-listed criteria. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the wastes for the listed constituents of concern as well as for all other factors (including additional constituents) for which there was a reasonable basis to believe that they could cause the waste to be hazardous. These petitioners have demonstrated through submission of raw materials data, EP toxicity test data for all EP toxic metals, and test data on the four hazardous waste characteristics that their wastes do not exhibit any of the hazardous waste characteristics, and do not contain any other toxicants at levels of regulatory concern.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, any States which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[4] To date only one State (Georgia) has received approval for their delisting program. The final exclusions granted today, therefore, are issued under the Federal program. States, however, can still decide whether to exclude these wastes under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

The exclusions made final here involve the following petitioners:

S–R of Tennessee, Ripley, Tennessee;
Vulcan Materials Company, Port Edwards, Wisconsin.

I. SR of Tennessee

A. Proposed Exclusion

SR of Tennessee (SR) has petitioned the Agency to exclude its wastewater treatment sludge (filter press and impoundment sludges) from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by SR substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by SR indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 7827–7829, March 6, 1986, for a more detailed explanation of why EPA proposed to grant SR's petition.)

B. Agency Response to Public Comments

The Agency received comments from a single commenter regarding its decision to grant an exclusion to SR for the waste identified in the petition. The commenter questioned the Agency's use of the extraction procedure to evaluate the potential mobility of constituents in the waste. Other factors which could increase metal mobility were cited, such as low pH or chelating agents in a sanitary landfill. The Agency's approach assumes a reasonable worst-case scenario in an unlined municipal landfill for the VHS model. Such a modeling scenario is conservative in that mechanisms which may limit constituent concentrations in ground water, *e.g.* attenuation, are assumed not to enter into the scenario. The Agency believes that our reasonable worst-case model is consistent, and in the case of SR of Tennessee the Agency believes that the use of this reasonable worst-case model is sufficient to evaluate potential impacts on human health and the environment. No evidence has been presented to the Agency to indicate the presence of low pH or chelating agents at the SR site, or to otherwise show that the Agency's reasonable worst-case scenario would not be sufficiently rigorous to properly evaluate SR's waste.

In order to model specific chemical interactions (such as those discussed by the commenter), site-specific data for a particular landfill would be necessary. Evaluation of wastes under the delisting program, however, is not disposal site-specific. Once delisted, there is no guarantee that the waste would be disposed of according to a particular set of site-specific conditions. The Agency further notes that use of the EP Toxicity test in the VHS model analysis was open for public comment (see 50 FR 7882–7900, February 26, 1985) and these comments were addressed (See 50 FR 48886–48967, November 27, 1985). The Agency believes these responses adequately address any specific concerns raised by this commenter.

The commenter questioned the mean EP value in the VHS model for

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Electroplating, located in Ripley, Tennessee (see 51 FR 7827); and Valley City Steel Co., located in Valley City, Ohio (see 51 FR 7829). The Agency has addressed or will address these proposed decisions in separate **Federal Register** Notices.

[2] In the same **Federal Register** notice, the Agency also proposed to exclude the wastes generated by the following petitioners: Arco Building Products, located in Sugar Creek, Ohio (see 51 FR 16862); Hanover Wire Cloth Division, located in Hanover, Pennsylvania (see 51 FR 16863); International Minerals and Chemical Corp., located in Terre Haute, Indiana (see 51 FR 16865); Monsanto Industrial Chemicals Co., located in Sauget, Illinois (see 51 FR 16866); Square D Co., located in Oxford, Ohio (see 51 FR 16869); and Whirlpool Corporation, located in Danville, Ohio (see 51 FR 16873). The Agency has addressed these proposed decisions in separate **Federal Register** Notices.

[3] The current exclusion apply only to the processes covered by the original demonstrations. A facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new exclusion is granted.

[4] RCRA Reauthorization Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions, May 16, 1985, Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

evaluating lagoon sludge. The Agency agrees with the commenter. The eight composite samples originally submitted for the lagooned waste do not comprise a large enough data set to allow the use of any value other than the maximum extract value for chromium. The Agency has, therefore, re-run the VHS calculations using the maximum reported EP value in the lagoon sludge. The resulting compliance point value is 0.049 ppm, which is still less than the regulatory standard for chromium. Therefore, the Agency believes that this change, in combination with our responses to other points raised by the commenter and addressed elsewhere in this preamble, does not warrant changing our proposed decision on this petition.

The commenter noted that the state never required groundwater monitoring although the temporary exclusion did not cover the lagoon. Therefore, the commenter suggested that EPA should not grant delistings to facilities that do not have adequate groundwater monitoring systems. The Agency agrees that the evaluation of groundwater monitoring data is a useful measure of a waste's degree of hazard. Data submitted for one downgradient well indicated nickel, chromium, and cadmium were not detected in the groundwater. In general, facilities petitioning for exclusion of a waste managed in an on-site land disposal unit or exclusion of a land disposal unit are expected to be in compliance with the requirements of 40 CFR Part 264 or 265 and must submit any groundwater monitoring data collected as a result of those requirements. However, because many petitioners with final and temporary exclusions have not, under the regulations, been required to have monitoring systems in place, these peitioners, as well as facilities that have received a waiver from the groundwater monitoring requirements will, as a matter of policy, be considered for exclusion without this ground water monitoring data.

The final point discussed by the commenter addressed the fact that SR of Tennessee and Tennessee Electroplating may both use the same sanitary landfill for disposing of delisted wastes. The commenter argued that the volumes of sludge from the two facilities should be added and the total volume used as the input to the VHS model. Under the delisting program, the Agency cannot insure how the waste will be managed after an exclusion has been granted. The delisting process. therefore, cannot predict which landfill will be used for disposal of a waste or account for other wastes with which the subject wastes may be disposed. The delisting, therefore, applies to the filter cake as generated which is to be disposed in a landfill. The decision is not predicated, however, on which landfill is utilized. This interpretation of applicability is important to the petitioner in that since the decision is based on the waste , the waste can be landfilled at any location, enabling the petitioner to change the landfills used at any time (e.g., due to variation in tipping fees). The VHS model is volume specific only in terms of the annual generation rate for each petitioner. The Agency has indicated previously (see 50 FR 7900, February 26, 1985) that the Agency and the VHS model cannot account for synergistic effects created by wastes disposed of by different generators at the same landfill. The commenter notes that at the present time the same landfill is used by these two companies. The agency notes that it is very likely that several other generators also dispose of chromium bearing wastes at this site.

The reasonable worst-case landfill scenario assumes that 5% of the waste at a landfill will consist of industrial waste. This assumption was used in the development of the EP leachate test. That the commenter has identified some other source of industrial wastes does not suggest that the 5% assumption is incorrect.

The Agency will review its policy regarding this issue, but at the present has no means to incorporate co-use of the same landfill into its evaluation.[5] The Agency has formulated the VHS model to approximate a reasonable worst-case scenario in a Subtitle D facility, and the model makes several reasonable assumptions about site geometry and aquifer movement. In order for the Agency to develop a new modeling scenario based on co-disposal of a similar waste (which would increase the waste volume and so decrease the dilution factor assigned to the evaluated waste), the Agency would need to cross-reference hazardous wastes being disposed at every disposal facility in the United States. Under the commenter's recommendation, the Agency would have to designate acceptable landfills to receive each delisted waste. This alternative is unacceptable to the Agency since it would impose an impossible administrative burden.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the generated filter press sludge and that contained in the on-site impoundment are non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final exclusion to SR of Tennessee for its waste-water treatment sludge (EPA Hazardous Waste No. F006) generated and that contained in the closed impoundment at SR's Ripley, Tennessee facility. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[6] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

II. Vulcan Materials Company

A. Proposed Exclusion

Vulcan Materials (Vulcan) has petitioned the Agency to exclude its brine purification muds and saturator insolubles for EPA Hazardous Waste No. K071, based on the low concentration and immobilization of the listed constituent in the waste. Data submitted by Vulcan substantiate their claim that mercury, the listed constituent of concern, is present, but essentially in an immobile form. Furthermore, additional data provided by Vulcan indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 16871–16873, May 7, 1986, for a more detailed explanation of why EPA proposed to grant Vulcan's petition.)

B. Agency Response to Public Comments

The Agency received comments objecting to the use of EP leachate data in evaluating mercury-containing wastes that have been petitioned for exclusion. The commenter states that the total concentration of mercury in the waste should be used in the Agency's

[5] The Agency notes that although not used as a basis for response to this comment, additional EP toxicity test data from Tennessee Electroplating has been submitted. This data involves in excess of 75 data points taken over a two year period. A statistical analysis of this data would allow the use of the median value rather than a maximum. Even if the combined volume for the two facilities is used. Tennessee Electroplating would still pass the VHS evaluation. The Agency has not made this calculation for SR since additional filter cake data was not submitted to allow the use of a mean or median value for their filter cake.

[6] The current exclusion applies only to the processes covered by the original demonstrations. A facility must treat its waste as hazardous, however, until a new petition is granted.

evaluation because, over time and after exposure to various landfill conditions (*e.g.*, aerobic and anaerobic biological activity, acidic alkaline, oxidizing, and reducing conditions, organic and inorganic solvent effects), relatively insoluble forms of mercury could be transformed to more transportable or soluble forms. However, the commenter did not identify these soluble mercury compounds or provide any information that landfills, in general, would leach mercury at concentrations greater than those predicted by the EP toxic levels and the VHS model. The commenter did give literature sources and contacts to support his claims.[7]

The Agency acknowledges that the form and mobility of mercury in soils can vary depending on the types of conditions present, as cited by the commenter. Based on a review of the literature cited by the commenter, it appears he is concerned primarily with the potential production of methylated mercury compounds. The formation of monomethyl mercury (which is more soluble than dimethyl mercury), is favored under acidic conditions. In addition, the mobilization of monomethyl mercury could occur under these conditions. Mobility of inorganic mercury in soils can also occur under acidic conditions.[8] However, very acidic conditions in a landfill would be considered an absolute worst-case scenario. The EP toxicity test simulates levels of leaching activity and pH that could realistically occur in a Subtitle D landfill. The test is performed under conditions at or above a pH of 5 using 0.5 N acetic acid. The VHS model assumes a reasonable worst-case scenario, using the EP toxicity test.

The Agency can conclude, at this time, that the fraction of total mercury present at a landfill as monomethyl mercury compounds (and the mobility of these compounds) does not appear to be high enough to justify using the total mercury concentration as an evaluation criteria in the delisting process. In the absence of data showing that mercury would leach (under the conditions found in most Subtitle D landfills) at higher levels than that predicted by the EP toxicity test, the Agency believes that the use of the EP test in the VHS model is still the best approach available to predict reasonable worst-case mobility of mercury.

The Agency concludes that the EP test is still appropriate for evaluating the mobility of mercury in wastes. However, if new evidence becomes available the Agency may choose to further investigate the issue in the future.

C. Final Agency Decision

For the the reasons stated in the proposal, the Agency believes that the brine clarifier muds and saturator insolubles are non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a final conditional exclusion to Vulcan for its treated brine clarification muds and treated saturator insolubles (EPA Hazardous Waste No. K071) generated at its Port Edwards, Wisconsin facility.[9] The conditions of the exclusion require that Vulcan test each batch of treated brine clarifier muds and saturator insolubles prior to disposal. If EP analyses indicate that the leachate concentration of mercury exceeds 0.0129 ppm, the waste must be re-treated or disposed of as a hazardous waste and will be subject to the regulatory requirements of 40 CFR Parts 262 through 267. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process). In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste).

III. Effective Date

This rule is effective immediately. Although Subtitle C regulations normally take effect six months after promulgation (RCRA section 3010(b)), the Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case here since this rule reduces, rather than increases, the existing requirements for persons generating hazardous wastes. In light of the unnecessary hardship and expense which would be imposed on the petitioners by an effective date six months after promulgation, and the fact that such a deadline is not necessary to achieve the purpose of section 3010, we believe that this rule should be effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d).

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This grant of exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's lists of hazardous wastes, thereby enabling these facilities to treat their wastes as non-hazardous.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effects will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Dated: November 7, 1986.

Jeffery D. Denit,

Acting Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and

[7] The Agency has reviewed these and other literature sources. See public docket for a more detailed discussion of the Agency's review.

[8] The Agency further notes that based upon studies by Korte, et al. (1976) that there may be substantial leaching of inorganic mercury from soils at some acidic landfills that also have high chloride concentrations. For a large number of landfills, the production of mercuric chloride complexes would probably be inhibited by the formation of HgS and/or the reduction of mercury. In addition, high organic concentrations may also inhibit the production of mercuric chloride complexes.

[9] The current exclusion applies only to the processes covered by the original demonstrations. A facility may file a new petition if it alters its process. The facility must treat its waste as hazardous, however, until a new petition is granted.

Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Appendix IX, add the following wastestreams in alphabetical order to Tables 1 and 2 to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste Description
*	* *	* *
SR of Tennessee.	Ripley, TN	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from the copper, nickel, and chromium electroplating of plastic parts after November 17, 1986.
*	* *	* *

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
*	* *	* *
Vulcan Materials Company.	Port Edwards, WI.	Brine purification muds (EPA Hazardous Waste No. K071) generated from the mercury cell process in chlorine production, where separately prepurified brine is not used after November 17, 1986. To assure that mercury levels in this waste are maintained at acceptable levels, the following conditions apply to this exclusion: Each batch of treated brine clarifier muds and saturator insolubles must be tested (by the extraction procedure) prior to disposal and the leachate concentration of mercury must be less than or equal to 0.0129 ppm. If the waste does not meet this requirement, then it must be re-treated or disposed of as hazardous. This exclusion does not apply to wastes for which either of these conditions is not satisfied.

[FR Doc. 86-25843 Filed 11-14-86; 8:45 am]
BILLING CODE 6560-50-M

40 CFR Part 261

[SW-FRL-3111-6]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Denials

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is announcing its decision to deny the petitions submitted by seven petitioners to exclude their solid wastes from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific basis" from the hazardous waste lists. Our basis for denying these petitions is that the petitioners have not substantiated their claims that the wastes are non-hazardous. The effect of this action is that all of this waste must be handled as hazardous waste in accordance with 40 CFR Parts 262 through 266, and Parts 270, 271 and 124.

EFFECTIVE DATE: May 18, 1987.

ADDRESS: The public docket for these final petition denials is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475-9327 or Kate Blow at (202) 382-4675 for appointments. The reference number for this docket is "F-86-ATDF-FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-5096.

SUPPLEMENTARY INFORMATION: On October 17, 1986, EPA proposed to deny specific wastes generated by several facilities, including: (1) American Telephone & Telegraph (AT&T), located in North Andover, Massachusetts (see 51 FR 37141); (2) Diamond Shamrock Refining and Marketing Co., located in Sunray, Texas (see 51 FR 37143); (3) Hill Petroleum Company, located in Houston, Texas (see 51 FR 37146); (4) Murphy Oil USA, Inc., located in Superior, Wisconsin (see 51 FR 37152); (5) New Departure Hyatt, located in Sandusky, Ohio (see 51 FR 37154); (6) Virginia Chemicals, Inc., located in Bucks, Alabama (see 51 FR 37156); and (7) Virginia Chemicals, Inc., located in Leeds, South Carolina (see 51 FR 37160).[1] [2]

The Agency had previously evaluated all seven of the petitions which are discussed in today's notice. Based on our review at that time, all seven of these petitioners were granted a temporary exclusion. Due to changes in the delisting criteria required by the Hazardous and Solid Waste Amendments of 1984, however, these petitions have been evaluated both for the factors for which the wastes were originally listed, as well as other factors and toxicants which reasonably could cause the wastes to be hazardous. Based upon these evaluations, the Agency has determined that all of the petitioning facilities have not substantiated their claims that the wastes are non-hazardous; therefore, the Agency is denying the petitions submitted by all seven petitioning facilities and is revoking the temporary exclusions currently held by these facilities.

The denials made final here involve the following petitioners:

American Telephone & Telegraph, North Andover, Massachusetts;
Diamond Shamrock Refining and Marketing Co., Sunray, Texas;
Hill Petroleum Company, Houston, Texas;
Murphy Oil USA, Inc., Superior, Wisconsin;
New Departure Hyatt, Sandusky, Ohio;
Virginia Chemicals, Inc., Bucks, Alabama;
Virginia Chemicals, Inc., Leeds, South Carolina.

I. American Telephone & Telegraph

A. Proposed Denial

American Telephone & Telegraph (AT&T), formerly Western Electric Company, has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by AT&T, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile

[1] In the same **Federal Register** notice, the Agency also proposed to deny exclusion of specific wastes generated by Titan Oil Company, Indianapolis, Indiana (see 51 FR 37157). During the public comment period for the proposed rule, Titan Oil sent a letter to notify the Agency that the petitioned waste is no longer treated or generated at their facility, and to withdraw their petition.

[2] In the same **Federal Register** notice the Agency also proposed to deny exclusion of specific wastes generated by L-TEC Welding and Cutting Systems, Ashtabula, Ohio. The Agency will address this proposed denial in a later **Federal Register** notice.

form.[3] (See 51 FR 37142–37143, October 17, 1986, for a more detailed explanation of why the Agency proposed to deny AT&T's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to AT&T for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the vacuum filter sludge generated by AT&T is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to American Telephone & Telegraph for its dewatered wastewater treatment sludge (vacuum filter sludge) resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, which is generated at its North Andover, Massachusetts facility. By this action, the Agency also withdraws the temporary exclusion granted for this waste on March 4, 1982.

II. Diamond Shamrock

A. Proposed Denial

The Diamond Shamrock Refining and Marketing Company (Diamond Shamrock) has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste Nos. K048, K049, and K051 based on the low concentrations and immobilization of the listed constituents in the waste. Data submitted by Diamond Shamrock, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[4] (See 51 FR 37143–37146, October 17, 1986, for a more detailed explanation of why the Agency proposed to deny Diamond Shamrock's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to Diamond Shamrock for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the DAF float and API separator sludges generated by Diamond Shamrock are hazardous and as such should not be excluded from hazardous waste control. No additional information was submitted concerning the slop oil pits and slop oil emulsion solids. The Agency, therefore, is denying a final exclusion to Diamond Shamrock Refining and Marketing Company for its DAF float, API separator sludge, slop oil pits and slop oil emulsion solids resulting from petrochemical processing, listed as EPA Hazardous Waste Nos. K048, K049, and K051 which is generated at its McKee Plants Refinery near Sunray, Texas. By this action, the Agency also withdraws the temporary exclusion granted for these wastes on February 26, 1982.[5]

III. Hill Petroleum Company

A. Proposed Denial

Hill Petroleum Company, (Hill) formerly Charter International Oil Company, has petitioned the Agency to exclude its wastewater treatment sludges from EPA Hazardous Waste Nos. K048 and K051 based on the low concentrations and immobilization of the listed constituents in the waste. Data submitted by Hill, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[6] (See 51 FR 37146–37149, October 17, 1986, for a more detailed explanation of why the Agency proposed to deny Hill's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to Hill for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the DAF float and API separator sludge generated by Hill are hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to Hill for its DAF float and API separator sludge resulting from petrochemical processing, listed as EPA Hazardous Waste Nos. K048 and K051 which is generated at its oil refinery in Houston, Texas.[7] By this action, the Agency also withdraws the temporary exclusion granted for this waste on February 12, 1982.

IV. Murphy Oil USA, Inc.

A. Proposed Denial

Murphy Oil USA, Inc. (Murphy), has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste Nos. K049, K050, and K051 based on the low concentrations and immobilization of the listed constitutents in the waste. Data submitted by Murphy, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[8] (See 51 FR 37152–37154, October 17, 1986, for a more detailed explanation of why the Agency proposed to deny Murphy's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to Murphy Oil for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the API separator sludges generated by Murphy are hazardous and as such should not be excluded from hazardous waste control. Since the API separator sludges are combined with two other listed hazardous wastestreams, the resulting API separator sludges are listed as K049, K050, and K051. The Agency therefore, is denying a final exclusion to Murphy Oil USA, Inc. for its API separator sludges resulting from petrochemical processing, listed as EPA Hazardous Waste No. K049, K050, and K051 which is generated at its Superior Refinery in Superior, Michigan. By this action, the Agency also withdraws the temporary exclusion granted for this waste on February 12, 1982.

V. New Departure Hyatt

A. Proposed Denial

New Departure Hyatt has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste No. F006, based on the low

[3] AT&T was granted an temporary exclusion for this waste on March 4, 1982. The exclusion applied only to the final treated and dewatered sludge. Furthermore, the temporary exclusion was conditional upon batch testing for total cyanide. If the total concentration exceeded 10 ppm, then the waste had to be covered as daily practice in order to avoid photoconversion of the cyanide.

[4] Diamond Shamrock was granted a temporary exclusion for this waste on February 26, 1982.

[5] Diamond Shamrock was notified, in a letter dated May 15, 1986, that the Characterization and Assessment Division (CAD) would recommend to the Assistant Administrator for Solid Waste and Emergency Response that Diamond Shamrock's petition be denied. Diamond Shamrock declined to exercise its option to withdraw the petition. See 51 FR 37146, n. 16, October 17, 1986.

[6] Hill Petroleum was granted a temporary exclusion for this waste on February 12, 1982.

[7] Hill originally petitioned the Agency to exclude five waste-streams; namely their DAF float (K048), slop oil emulsion solids (K049), heat exchanger bundle cleaning sludge (K050), API separator sludge (K051), and waste activated sludge. This notice discusses the Agency's decision regarding Hill's DAF float (K048) and API separator sludge (K051). Hill has withdrawn their petitions for the remaining three wastestreams.

[8] Murphy Oil was granted a temporary exclusion for this waste on February 12, 1982.

concentration and immobilization of the listed constitutents in the waste. Data submitted by New Departure Hyatt, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[9] (See 51 FR 37154–37156, October 17, 1986, for a more detailed explanation of why the Agency proposed to deny New Departure Hyatt's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to New Departure Hyatt for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the filter cake generated by New Departure Hyatt is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to New Departure Hyatt for its dewatered wastewater treatment sludge (vacuum filter sludge) resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, which is generated at its Sandusky, Ohio facility. By this action, the Agency also withdraws the temporary exclusion granted for this waste on December 15, 1981.

VI. Virginia Chemicals, Inc.

A. Proposed Denial

Virginia Chemicals, Inc. (Virginia Chemicals) has petitioned the Agency to exclude its still bottoms from EPA Hazardous Waste No. F003, based on the low percentage of methanol in the waste and the non-ignitability of the waste. Data submitted by Virginia Chemicals, however, fails to substantiate its claim that its methanol recovery process generates non-hazardous still bottoms.[10] (See 51 FR 37156–37157, October 17, 1986, for a more detailed explanation of why the Agency proposed to deny Virginia Chemicals' petition.)[11]

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to Virginia Chemicals for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the still bottoms generated by Virginia Chemicals are hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to Virginia Chemicals for its methanol recovery still bottoms resulting from the manufacture of sodium hydrosulfite, listed as EPA Hazardous Waste No. F003, which is generated at its Bucks, Alabama, facility. By this action, the Agency also withdraws the temporary exclusion granted for this waste on December 31, 1980 (see 45 FR 86444).

VII. Virginia Chemicals, Inc.

A. Proposed Denial

Virginia Chemicals, Inc. (Virginia Chemicals) has petitioned the Agency to exclude its still bottoms from EPA Hazardous Waste No. F003, based on the low percentage of methanol in the waste and the non-ignitability of the waste. Data submitted by Virginia Chemicals, however, fails to substantiate its claim that its methanol recovery process generates non-hazardous still bottoms.[12] (See 51 FR 37160–37161, October 17, 1986 for a more detailed explanation of why the Agency proposed to deny Virginia Chemicals' petition.)[13]

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to Virginia Chemicals for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the still bottoms generated by Virginia Chemicals are hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to Virginia Chemicals for its methanol recovery still bottoms resulting from the manufacture of sodium hydrosulfite, listed as EPA Hazardous Waste No. F003, which is generated at its Leeds, South Carolina facility. By this action, the Agency also withdraws the temporary exclusion granted for this waste on December 31, 1980 (see 45 FR 86544).

VIII. Effective Date

The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. This is not the case, however, for the seven petitioners included in this notice having their temporary exclusions revoked and final exclusions denied. They will have to revert back to handling their wastes as they did before being granted these exclusions (*i.e.*, they must handle their wastes as hazardous). These petitioners will need some time to come into compliance with the RCRA hazardous waste management system. Accordingly, the effective date of the revocation of these temporary exclusions and denials is six months after publication of this rule in the **Federal Register.**

IX. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation, which would revoke temporary exclusions and deny petitions from seven facilities is not major. The affect of this rule would increase the overall costs for the facilities which currently have temporary exclusions that are being revoked and denied. The actual costs to these companies, however, would not be significant. In particular, in calculating the amount of waste that is generated by these seven facilities that currently have temporary exclusions and considering a disposal cost of $300/ton, the increased cost to these facilities is approximately $35.3 million, well under the $100 million level constituting a major regulation. In addition, some of these companies are large and, therefore, the impact of this rule will be relatively small. This rule is not a major regulation; therefore, no Regulatory Impact Analysis is required.

X. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. sections 601 through 612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant

[9] New Departure Hyatt was granted a temporary exclusion for this waste on December 15, 1981.

[10] Virginia Chemicals was granted a temporary exclusion for this waste on December 31, 1980 (See 45 FR 86544).

[11] Virginia Chemicals submitted additional data during the comment period. This data is still under review. If the data supports an exclusion, the Agency will propose to exclude these wastes.

[12] Virginia Chemicals was granted a temporary exclusion for this waste on December 31, 1980 (see 45 FR 86544).

[13] See footnote 11.

economic impact on a substantial number of small entities.

This amendment will have the effect of increasing overall waste disposal costs. This rule only effects seven facilities across different industrial segments. The overall economic impact, therefore, on small entities is small. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: November 6, 1986.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86-25840 Filed 11-14-86; 8:45 am]

BILLING CODE 6560-50-M

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40 CFR Part 261

[SW-FRL-3111-7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Denials

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is announcing its decision to deny the petitions submitted by three petitioners to exclude their solid wastes from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific basis" from the hazardous waste lists. Our basis for denying these petitions is that the petitioners have not substantiated their claims that the wastes are non-hazardous. The effect of this action is that all of this waste must be handled as hazardous waste in accordance with 40 CFR Parts 262 through 266, and Parts 270, 271, and 124.

EFFECTIVE DATE: May 18, 1987.

ADDRESSES: The public docket for these final petition denials is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475-9327 or Kate Blow at (202) 382-4675 for appointments. The reference number for this docket is "F-86-UCDF-FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424-9346, or at (202) 382-3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH-562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382-5096.

SUPPLEMENTARY INFORMATION: On October 21, 1986, EPA proposed to deny specific wastes generated by several facilities, including: (1) General Motors Corp., Delco Products Division, located in Kettering, Ohio (see 51 FR 37303); (2) John Deere Dubuque Works, located in Dubuque, Iowa (see 51 FR 37305); and (3) United Chair, Inc., located in Irondale, Alabama (see 51 FR 37309).[1, 2] The Agency had previously evaluated all three of the petitions which are discussed in today's notice. Based on our review at that time, these petitioners were granted a temporary exclusion. Due to changes in the delisting criteria required by the Hazardous and Solid Amendments of 1984, however, these petitions have been evaluated both for the factors for which the wastes were originally listed, as well as other factors and toxicants which reasonably could cause the wastes to be hazardous. Based upon these evaluations, the Agency has determined that these petitioning facilities have not substantiated their claims that the wastes are non-hazardous; therefore, the Agency is denying the petitions submitted by all three petitioning facilities and is revoking the temporary exclusions currently held by these facilities.

The denials made final here involve the following petitioners:

General Motors Corp., Delco Products Div., Kettering, Ohio;

John Deere Dubuque Works, Dubuque, Iowa;

United Chair, Inc., Irondale, Alabama.

I. General Motors Corporation, Delco Products Division

A. Proposed Denial

General Motors Corporation, Delco Products Division (Delco) has petitioned the Agency to exclude its wastewater treatment sludges from EPA Hazardous Waste Nos. F006 and F012, based on the absence or immobilization of the listed constituents in the wastes. Data submitted by Delco, however, fails to substantiate its claim that the listed constituents are absent or essentially present in an immobile form.[3] (See 51 FR 37303-37305, October 21, 1986, for a more detailed explanation of why the Agency proposed to deny Delco's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to Delco for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the waste sludge cake generated by Delco is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to the General Motors Corporation, Delco Products Division for its dewatered wastewater treatment sludge (waste sludge cake) resulting from electroplating and metal heat treating operations, listed as EPA Hazardous Waste Nos. F006 and F012 respectively, which are generated at its Kettering, Ohio facility. By this action, the Agency also withdraws the temporary exclusion granted for this waste on December 23, 1981 and modified on January 21, 1982.

II. John Deere Dubuque Works

A. Proposed Denial

John Deere Dubuque Works (John Deere) has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by John Deere, however, fails to substantiate its

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[1] In the same **Federal Register** notice, the Agency also proposed to deny exclusion for specific wastes generated by the LTV Steel Company, located in East Chicago, Indiana (see 51 FR 37037). The Agency will address this proposal in a future **Federal Register** notice.

[2] In the same **Federal Register** notice, the Agency also proposed to deny exclusion to specific wastes generated by the Cerro Conduit Co., located in Syosset, New York (see 51 FR 37301). During the comment period for the proposed rule, Cerro Conduit sent a letter to the Agency requesting that its petition be withdrawn. By withdrawing their petition, Cerro Conduit's temporary exclusion is no longer valid; therefore, the previously petitioned waste must now be handled as hazardous.

[3] Delco was granted a temporary exclusion for the F006 waste on December 23, 1981. The petition was amended on January 21, 1982 to include Delco's F012 waste.

claim that the listed constituents are essentially present in an immobile form.[4] (See 51 FR 37305–37307, October 21, 1986, for a more detailed explanation of why the Agency proposed to deny John Deere's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments on its proposed decision to deny an exclusion John Deere for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the filter cake generated by John Deere is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to John Deere Dubuque Works for its dewatered wastewater treatment sludge (filter cake) resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, which is generated at its facility located in Dubuque, Iowa. By this action, the Agency also withdraws the temporary exclusion granted for this waste on December 16, 1981 (see 46 FR 61272).

III. United Chair, Inc.

A. Proposed Denial

United Chair, Inc. has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste No. F006, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by United Chair, however, fails to substantiate its claim that the listed constitutents are essentially present in an immobile form.[5] (See 51 FR 37309–37310, October 21, 1986, for a more detailed explanation of why the Agency proposed to deny United Chair's petition.)

B. Agency Response to Public Comments

The Agency did not receive any comments regarding its decision to deny an exclusion to United Chair for the waste identified in the petition.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the filter press sludge generated by United Chair is hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying a final exclusion to the United Chair, Inc. for its dewatered wastewater treatment sludge (filter press sludge) resulting from electroplating operations, listed as EPA Hazardous Waste No. F006, which is generated at its Irondale, Alabama facility. By this action, the Agency also withdraws the temporary exclusion granted for this waste on May 5, 1982.

IV. Effective Date

The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. This is not the case, however, for the three petitioners included in this notice having their temporary exclusions revoked and final exclusions denied. They will have to revert back to handling their wastes as they did before being granted these exclusions (*i.e.*, they must handle their wastes as hazardous). These petitioners will need some time to come into compliance with the RCRA hazardous waste management system. Accordingly, the effective date of the revocation of these temporary exclusions and denials is six months after publication of this final rule in the **Federal Register.**

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and therefore subject to the requirement of a Regulatory Impact Analysis. This regulation, which would revoke temporary exclusions and deny petitions from three facilities is not major. The affect of this rule would increase the overall costs for the facilities which currently have temporary exclusions that are being revoked and denied. The actual costs to these companies, however, would not be significant. In particular, in calculating the amount of waste that is generated by these three facilities that currently have temporary exclusions and considering a disposal cost of $300/ton, the increased cost to these facilities is approximately $2.9 million, well under the $100 million level constituting a major regulation. In addition, some of these companies are large and, therefore, the impact of this rule will be relatively small. This rule is not a major regulation; therefore, no Regulatory Impact Analysis is required.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. sections 601 through 612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will have the effect of increasing overall waste disposal costs. This rule only effects three facilities across different industrial segments. The overall economic impact, therefore, on small entities is small. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: November 6, 1986.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86–25839 Filed 11–14–86; 8:45 am]

BILLING CODE 6560–50–M

40 CFR Part 261

[SW-FRL-3112-8]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Exclusions

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is granting final exclusions for the solid wastes generated at three particular generating facilities from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions received by the Agency under 40 CFR 260.20 and 260.22 to exclude wastes on a "generator-specific" basis from the hazardous waste lists. The effect of this action is to exclude certain wastes generated at these facilities from listing as hazardous wastes under 40 CFR Part 261.

EFFECTIVE DATE: November 17, 1986.

ADDRESSES: The public docket for this final rule is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding

[4] John Deere was granted a temporary exclusion for this waste on December 16, 1981 (46 FR 61272).

[5] United Chair was granted a temporary exclusion for this waste May 5, 1982.

Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–TRFE–FFFFF". The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: For general information, contact the RCRA/Superfund Hotline, toll-free at (800) 424–9346, or (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION: On October 16, 1986, EPA proposed to exclude specific wastes generated by three facilities, including: (1) Tricil Environmental Systems, Inc., located in Hilliard, Ohio (see 51 FR 36976); (2) Tricil Environmental Systems, Inc., located in Nashville, Tennessee (see 51 FR 36979); and (3) Tricil Environmental Systems, Inc., located in Muskegon, Michigan (see 51 FR 36983). These actions were taken in response to petitions submitted by these companies (pursuant to 40 CFR 260.20 and 260.22) to exclude their wastes from hazardous waste control. In their petitions, these companies have argued that certain of their wastes were non-hazardous based upon the criteria for which the waste was listed. The petitioners have also provided information which has enabled the Agency to determine whether any other toxicants are present in the wastes at levels of regulatory concern. The purpose of today's actions is to make final the three proposals and to make our decisions effective immediately. More specifically, today's rule allows all three of these facilities to manage their petitioned wastes as non-hazardous. The exclusions remain in effect unless the wastes vary from those originally described in the petitions (*i.e.*, the wastes are altered as a result of changes in the manufacturing or treatment processes).[1] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

The Agency notes that the petitioners granted final exclusions in today's **Federal Register** have been reviewed for both the listed and non-listed criteria. As required by the Hazardous and Solid Waste Amendments of 1984, the Agency evaluated the wastes for the listed constituents of concern as well as for all other factors (including additional constituents) for which there was a reasonable basis to believe that they could cause the waste to be hazardous. These petitioners have demonstrated through submission of raw materials data, EP toxicity test data for all EP toxic metals, and test data on the four hazardous waste characteristics that their wastes do not exhibit any of the hazardous waste characteristics, and do not contain any other toxicants at levels of regulatory concern.

Limited Effect of Federal Exclusion

States are allowed to impose requirements that are more stringent than EPA's pursuant to section 3009 of RCRA. State programs thus need not include those Federal provisions which exempt persons from certain regulatory requirements. For example, States are not required to provide a delisting mechanism to obtain final authorization. If the State program does include a delisting mechanism, however, that mechanism must be no less stringent than that of the Federal program for the State to obtain and keep final authorization.

As a result of enactment of the Hazardous and Solid Waste Amendments of 1984, any States which had delisting programs prior to the Amendments must become reauthorized under the new provisions.[2] To date only one State (Georgia) has received approval for their delisting program. The final exclusions granted today, therefore, are issued under the Federal program. States, however, can still decide whether to exclude these wastes under their State (non-RCRA) program. Since a petitioner's waste may be regulated by a dual system (*i.e.*, both Federal (RCRA) and State (non-RCRA) programs), petitioners are urged to contact their State regulatory authority to determine the current status of their wastes under State law.

The exclusions made final here involve the following petitioners:

Tricil Environmental Systems, Inc., Hilliard, Ohio;

Tricil Environmental Systems, Inc., Nashville, Tennessee; and

Tricil Environmental Systems, Inc., Muskegon, Michigan.

I. Tricil Environmental Services, Inc.

A. Proposed Exclusion

Tricil Environmental Services, Inc., (Tricil), located in Hilliard, Ohio, has petitioned the Agency to exclude the residue of specific segregated wastes (filter press sludge and sludge storage piles) produced by its treatment facility from EPA Hazardous Waste Nos. K062 and F006 based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Tricil substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Tricil indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 36976–36979, October 16, 1986 for a more detailed explanation of why EPA proposed to grant Tricil's petition.)

B. Agency Response to Public Comments

The Agency received comments from Tricil regarding the Agency's decision to grant an exclusion for the waste identified in its petition. Tricil commented on the following aspects of the proposed exclusion: (1) The maximum acceptable limits for several constituents are below established quantification limits, and (2) the effective date of the final exclusion does not allow enough time for Tricil to come into compliance with the conditions of the exclusion. These comments are addressed below.

Tricil commented that the maximum acceptable levels (MALs) for 1,2-dichloroethane, chloroform, and 1,1-dichloroethane (0.0082, 0.012, and 0.01 ppm, respectively) are below the established analytical quantification limits (*i.e.*, 0.05 ppm as per the proposed toxicity characteristic (see 51 FR 21648–21693) for 1,2-dichloroethane and chloroform, and 0.05 ppm as per SW–846 Test Method 8240 for 1,1-dichloroethane.) Tricil suggested that the MALs for these three constituents be set at the quantification limit of 0.05 ppm. The Agency realizes that there are some constituents whose MALs are below standard EPA detection limits. The Agency has noted in previous notices that where hazardous constituents in a waste are determined to be nondetectable using appropriate analytical methods, the Agency will, as a matter of policy, not regulate the waste as hazardous. The Agency notes

[1] The current exclusions apply only to the processes covered by the original demonstrations. A facility may file a new petition if it alters its process. Should such a change occur, the facility must treat its waste as hazardous until a new exclusion is granted.

[2] RCRA Reauthorization Statutory Interpretation #4: Effect of Hazardous and Solid Waste Amendments of 1984 on State Delisting Decisions. May 16, 1985. Jack W. McGraw, Acting Assistant Administrator for the Office of Solid Waste and Emergency Response.

that Tricil has submitted analytical results with detection limits as low as 0.008 ppm for chloroform and 0.014 for 1.2-dichloroethane. (All reported results for 1,1-dichloroethane were greater than 0.05 ppm; however, the Agency believes these three compounds are similar enough that Tricil should be able to achieve detection limits less than 0.05 ppm for 1,1-dichloroethane.) The Agency, therefore, does not believe that it is necessary to raise the MALs to 0.05 ppm, but will review the petitioner's first six months of analytical data and, if a problem is demonstrated, will repropose the alternative detection limits as necessary.

Tricil requested that the Agency finalize the proposed exclusion prior to or on the HSWA deadline of November 8, 1986 but to postpone the cancellation of their temporary exclusion and the effective date of the final exclusion for six months. Tricil requested this extension of the temporary exclusion and postponement of the final exclusion in order to: (1) Allow Tricil to adjust its treatment system and/or eliminate clients in order to implement an effective organics pre-screening process to limit organic content in the waste, and (2) allow Tricil to develop the required laboratory capabilities and/or locate commercial laboratories to conduct the batch testing requirements of the conditional exclusion. Tricil believes that the Agency has the authority under HSWA to grant Tricil's request. Tricil's interpretation of HSWA is that "temporary exclusions issued prior to enactment cease to be in effect on November 8, 1986 *unless* EPA has promulgated a final decision to *grant* or deny a final exclusion by November 8, 1986." In addition, Tricil pointed out that the Agency has given facilities whose temporary exclusions are being denied a six month period to come into compliance. The Agency agrees with Tricil's arguments and, therefore, will allow Tricil a six month period to come into compliance with those conditions of the final exclusion pertaining to the level of organic toxicants in the delisted waste. The Agency, however, believes that it *is* appropriate for Tricil to implement immediately the testing requirements for the EP toxic metals, nickel, and cyanide since Tricil currently pre-screens incoming client wastes under the continuous testing provisions of their conditional temporary exclusion and has had ample time to prepare for this condition.

The Agency notes that since the draft of "EPA Support Document: Regulatory Standards and Solubilities of Constituents of Concern" (dated June 1986) has undergone recent updates, the proposed maximum acceptable levels for specific organics in Tricil's contingency plan (item #3) have been modified. Tricil will be required to test for the total content of the organic toxicants listed below. If the total content of any of these constituents exceeds the maximum levels listed below, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. A corrected and final list of MALs for the Tricil wastes is provided in Table 1.

TABLE 1.—MAXIMUM ACCEPTABLE LIMITS FOR TRICIL WASTES

Constituents	Maximum acceptable limits (ppm)
Acrolein	[1] 56.8
Anthracene	76.8
Benzene	0.106
p-Chloro-m-cresol	133
1,1-Dichloroethane	0.01
Fluorene	10.4
Methylene chloride	8.2
Methyl ethyl ketone	326
n-Nitrosodiphenylamine	11.9
Phenanthrene	14
Tetrachloroethylene	0.188
Trichloroethylene	0.59
Chloroform	0.013
1,2-Dichloroethane	0.0083
1,2-trans-Dichloroethylene	231
2,4-Dimethylphenol	[2] 12.5
Vinyl chloride	0.18
1,2-Diphenyl hydrazine	[2] 0.001

[1] The MAL cited in the proposed exclusion was based on a different solubility. The MAL cited here is based on a revised solubility.
[2] The MAL for 2,4-dimethyl phenol and 1,2-diphenyl hydrazine were reported incorrectly in the proposed exclusion.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the treatment residue is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a conditional exclusion to Tricil for its treatment residue (EPA Hazardous Waste Nos. K062 and F006) generated at Tricil's Hilliard, Ohio facility. The conditions which must be met were outlined in a contingency testing program in the proposed exclusion. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[3] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

[3] See footnote 1.

II. Tricil Environmental Services, Inc.

A. Proposed Exclusion

Tricil Environmental Services, Inc., (Tricil), located in Nashville, Tennessee, has petitioned the Agency to exclude its wastewater treatment sludge (vacuum filter sludge) from EPA Hazardous Waste No. F019, based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Tricil substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Tricil indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 36979–36983, October 16, 1986 for a more detailed explanation of why EPA proposed to grant Tricil's petition.)

B. Agency Response to Public Comments

The Agency received comments from Tricil regarding the Agency's decision to grant an exclusion for the waste identified in its petition. Tricil commented on the following aspects of the proposed exclusion: (1) The maximum acceptable limits for several constituents are below established quantification limits, and (2) the effective date of the final exclusion does not allow enough time for Tricil to come into compliance with the conditions of the exclusion. These comments are addressed below.

Tricil requested that the Agency finalize the proposed exclusion prior to or on the HSWA deadline of November 8, 1986 but to postpone the cancellation of their temporary exclusion and the effective date of the final exclusion for six months. Tricil requested this extension of the temporary exclusion and postponement of the final exclusion in order to: (1) Allow Tricil to adjust its treatment system and/or eliminate clients in order to implement an effective organics pre-screening process to limit organic content in the waste, and (2) allow Tricil to develop the required laboratory capabilities and/or locate commercial laboratories to conduct the batch testing requirements of the conditional exclusion. Tricil believes that the Agency has the authority under HSWA to grant Tricil's request. Tricil's interpretation of HSWA is that "temporary exclusions issued prior to enactment cease to be in effect on November 8, 1986 *unless* EPA has promulgated a final decision to *grant* or

deny a final exclusion by November 8, 1986." In addition, Tricil pointed out that the Agency has given facilities whose temporary exclusions are being withdrawn/denied a six month period to come into compliance. The Agency agrees with Tricil's arguments and, therefore, will allow Tricil a six month period to come into compliance with those conditions of the final exclusion pertaining to the level of organic toxicants in the delisted waste. The Agency, however, believes that it *is* appropriate for Tricil to implement immediately the testing requirements for the EP toxic metals, nickel, and cyanide since Tricil currently pre-screens incoming client wastes under the continuous testing provisions of their conditional temporary exclusion and has had ample time to prepare for this condition.

The Agency notes that since the draft of "EPA Support Document: Regulatory Standards and Solubilities of Constituents of Concern" (dated June 1986) has undergone recent updates, the proposed maximum acceptable levels for specific organics in Tricil's contingency plan (item #3) have been modified. Tricil will be required to test for the total content of the organic toxicants listed below. If the total content of any of these constituents exceeds the maximum levels listed below, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. A corrected and final list of MALs for the Tricil wastes is provided in Table 1.

TABLE 1.—MAXIMUM ACCEPTABLE LIMITS FOR TRICIL WASTES

Constituents	Maximum acceptable limits (ppm)
Acrolein	[1] 363
Anthracene	492
Benzene	0.68
p-Chloro-m-cresol	848
1,1-Dichloroethane	0.068
Fluorene	66.7
Methylene chloride	52.4
n-Nitrosodiphenylamine	76.1
Phenanthrene	89
Tetrachloroethylene	1.2
Trichloroethylene	3.78
Chloroform	0.081
1,2-Dichloroethane	[2] 0.053
2,4-Dimethylphenol	79.7
Vinyl chloride	1.16
1,2-Diphenyl hydrazine	[2] 0.005

[1] The MAL cited in the proposed exclusion was based on a different solubility. The MAL cited here is based on a revised solubility.
[2] The MAL for 1,2-dichloroethane and 1,2-diphenyl hydrazine were reported incorrectly in the proposed exclusion.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the treatment residue is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a conditional exclusion to Tricil for its treatment residue resulting from the chemical conversion coating of aluminum, listed as EPA Hazardous Waste No. F019, generated at its Nashville, Tennessee facility. The conditions which must be met were outlined in the contingency testing program in the proposed exclusion. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[4] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.)

III. Tricil Environmental Services, Inc.

A. Proposed Exclusion

Tricil Environmental Services, Inc., (Tricil), located in Muskegon, Michigan, has petitioned the Agency to exclude the treatment residue (filter press sludge) produced by its treatment facility from EPA Hazardous Waste Nos. K062 and F006 based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Tricil substantiate their claim that the listed constituents of concern, although present, are essentially present in an immobile form. Furthermore, additional data provided by Tricil indicate that no other hazardous constituents are present in the waste at levels of regulatory concern, and that the waste does not exhibit any of the characteristics of hazardous waste. (See 51 FR 36983–36987, October 16, 1986 for a more detailed explanation of why EPA proposed to grant Tricil's petition.)

B. Agency Response to Public Comments

The Agency received comments from Tricil regarding the Agency's decision to grant an exclusion for the waste identified in its petition. Tricil commented on the following aspects of the proposed exclusion: (1) The maximum acceptable limits for several constituents are below established quantification limits, and (2) the effective date of the final exclusion does not allow enough time for Tricil to come into compliance with the conditions of the exclusion. These comments are addressed below.

Tricil commented that the maximum acceptable levels (MALs) for 1,2-dichloroethane, chloroform, and 1,1-dichloroethane (0.0082, 0.012, and 0.01 ppm, respectively) are below the established analytical quantification limits (*i.e.*, 0.05 ppm as per the proposed toxicity characteristic (see 51 FR 21648–21693) for 1,2-dichloroethane and chloroform, and 0.05 ppm as per SW–846 Test Method 8240 for 1,1-dichloroethane.) Tricil suggested that the MALs for these three constituents be set at the quantification limit of 0.05 ppm. The Agency realizes that there are some constituents whose MALs are below standard EPA detection limits. The Agency has noted in previous notices that where hazardous constituents in a waste are determined to be non-detectable using appropriate analytical methods, the Agency will, as a matter of policy, not regulate the waste as hazardous. The Agency notes that Tricil has submitted analytical results with detection limits as low as 0.008 ppm for chloroform and 0.014 for 1,2-dichloroethane. (AL1 reported results for 1,1-dichloroethane were greater than 0.05 ppm; however, the Agency believes that these three compounds are similar enough that Tricil should be able to achieve detection limits less than 0.05 ppm for 1,1-dichloroethane.) The Agency, therefore, does not believe that it is necessary to raise the MAL to 0.05 ppm, but will review the petitioner's first six months of analytical data and, if a problem is demonstrated, will repropose the alternative detection limits if necessary.

Tricil requested that the Agency finalize the proposed exclusion prior to or on the HSWA deadline of November 8, 1986 but to postpone the cancellation of their temporary exclusion and the effective date of the final exclusion for six months. Tricil requested this extension of the temporary exclusion and postponement of the final exclusion in order to: (1) Allow Tricil to adjust its treatment system and/or eliminate clients in order to implement an effective organics pre-screening process to limit organic content in the waste, and (2) allow Tricil to develop the required laboratory capabilities and/or locate commercial laboratories to conduct the batch testing requirements of the conditional exclusion. Tricil believes that the Agency has the authority under HSWA to grant Tricil's request. Tricil's interpretation of HSWA is that "temporary exclusions issued prior to enactment cease to be in effect on November 8, 1986 *unless* EPA has promulgated a final decision to *grant* or deny a final exclusion by November 8, 1986." In addition, Tricil pointed out that the Agency has given facilities whose temporary exclusions are being

[4] See footnote 1.

withdrawn/denied a six month period to come into compliance. The Agency agrees with Tricil's arguments and, therefore, will allow Tricil a six month period to come into compliance with those conditions of the final exclusion pertaining to the level of organic toxicants in the delisted waste. The Agency, however, believes that it *is* appropriate for Tricil to implement immediately the testing requirements for the EP toxic metals, nickel, and cyanide since Tricil currently pre-screens incoming client wastes under the continuous testing provisions of their conditional temporary exclusion and has had ample time to prepare for this condition.

The Agency notes that since the draft of "EPA Support Document: Regulatory Standards and Solubilities of Constituents of Concern" (dated June 1986) has undergone recent updates, the proposed maximum acceptable levels for specific organics in Tricil's contingency plan (item #3) have been modified. Tricil will be required to test for the total content of the organic toxicants listed below. If the total content of any of these constituents exceeds the maximum levels listed below, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. A corrected and final list of MALs for the Tricil wastes is provided in Table 1.

TABLE 1.—MAXIMUM ACCEPTABLE LIMITS FOR TRICIL WASTES

Constituents	Maximum acceptable limits (ppm)
Acrolein	[1] 56.8
Anthracene	76.8
Benzene	0.106
p-Chloro-m-cresol	133
1,1-Dichloroethane	0.01
Fluorene	10.4
Methylene chloride	8.2
Methyl ethyl ketone	326
n-Nitrosodiphenylamine	11.9
Phenanthrene	14
Tetrachloroethylene	0.188
Trichloroethylene	0.59
Chloroform	0.013
1,2-Dichloroethane	0.0083
1,2-trans-Dichloroethylene	231
2,4-Dimethylphenol	[2] 12.5
Vinyl chloride	0.18
1,2-Diphenyl hydrazine	[2] 0.001

[1] The MAL cited in the proposed exclusion was based on a different solubility. The MAL cited here is based on a revised solubility.

[2] The MAL for 2,4-dimethyl phenol and 1,2-diphenyl hydrazine were reported incorrectly in the proposed exclusion.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the treatment residue is non-hazardous and as such should be excluded from hazardous waste control. The Agency, therefore, is granting a conditional exclusion to Tricil for its treatment residue (EPA Hazardous Waste Nos. K062 and F006) generated at Tricil's Muskegon, Michigan facility. The conditions which must be met were outlined in a contingency testing program in the proposed exclusion. (The Agency notes that the exclusion remains in effect unless the waste varies from that originally described in the petition (*i.e.*, the waste is altered as a result of changes in the manufacturing or treatment process).[5] In addition, generators still are obligated to determine whether these wastes exhibit any of the characteristics of hazardous waste.

IV. Effective Date

This rule is effective immediately, including the testing requirements for heavy metals and cyanide. The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. That is the case for the heavy metals and cyanide testing since the petitioner has had ample time to prepare for this condition. Accordingly, the rule and testing conditions for heavy metals and cyanide are effective immediately. These reasons also provide a basis for making this rule effective immediately under the Administrative Procedure Act, pursuant to 5 U.S.C. 553(d). This is not the case, however, for the three facilities included in this notice with respect to the conditional testing requirements for organics. These facilities will need some time to implement an effective organic pre-screening program and develop on-site laboratory capabilities. Accordingly, the effective date of the organic testing conditions is six months after the publication of this rule in the **Federal Register.**

V. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This grant of exclusions is not major since its effect is to reduce the overall costs and economic impact of EPA's hazardous waste management regulations. This reduction is achieved by excluding wastes generated at specific facilities from EPA's lists of hazardous wastes, thereby enabling these facilities to treat their wastes as non-hazardous.

[5] See footnote 1.

VI. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. 601–612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will not have an adverse economic impact on small entities since its effects will be to reduce the overall costs of EPA's hazardous waste regulations. Accordingly, I hereby certify that this final regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous wastes, Recycling.

Dated: November 7, 1986.

Jeffery D. Denit,

Acting Director, Office of Solid Waste.

For the reasons set out in the preamble, 40 CFR Part 261 is proposed to be amended as follows:

PART 261—IDENTIFICATION AND LISTING OF HAZARDOUS WASTE

1. The authority citation for Part 261 continues to read as follows:

Authority: Secs. 1006, 2002(a), 3001, and 3002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976, as amended (42 U.S.C. 6905, 6912(a), 6921, and 6922).

2. In Appendix IX, add the following wastestreams in alphabetical order to tables 1 and 2 to read as follows:

Appendix IX—Wastes Excluded Under §§ 260.20 and 260.22

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES

Facility	Address	Waste description
Tricil Environmental Systems, Inc.	Hilliard, Ohio	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations after November 17, 1986. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern, the facility must implement a contingency testing program for the petitioned wastes. This testing program must meet the following conditions for the exclusion to be valid: (1) Each batch of treatment residue must be representatively sampled and tested using the total oil and grease test and the EP Toxicity test (or the Oily Waste EP test, if the oil and grease content of the waste exceeds one percent) for arsenic, barium, cadmium, chromium, lead, selenium, silver, mercury, and nickel. If the extract concentrations for chromium, lead, arsenic, and silver exceed 0.315 ppm; barium levels exceed 6.3 ppm; cadmium and selenium levels exceed 0.063 ppm; mercury levels exceed 0.013 ppm; or nickel levels exceed 2.2 ppm, the waste will be re-treated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (2) Each batch of treatment residue must be tested for reactive and leachable cyanide. If the reactive cyanide levels exceed 250 ppm or leachable cyanide levels (using the EP Toxicity test without acetic acid adjustment) exceed 1.26 ppm, the waste must be re-treated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (3) Each batch of the waste must be tested for the total content of the following organic toxicants. If the total content of any of the constituents exceeds the maximum levels shown, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. Compound and Maximum Acceptable Levels (ppm) Acrolein, 56.8 Anthracene, 76.8 Benzene, 0.106 p-Chloro-m-cresol, 133 1,1-Dichloroethane, 0.01 Fluorene, 10.4 Methylene chloride, 8.2 Methyl ethyl ketone, 326 n-Nitrosodiphenylamine, 11.9 Phenanthrene, 14 Tetrachloroethylene, 0.188 Trichloroethylene, 0.59 Chloroform, 0.013 1,2-Dichloroethane, 0.0083 1,2-trans-Dichloroethylene, 231 2,4-Dimethylphenol, 12.5 Vinyl chloride, 0.18 (4) A grab sample must be collected from each batch to form one monthly composite sample, which must be tested using GC/MS analysis for the compounds shown above as well as the remaining organics on the priority pollutant list. (See 47 FR 52309, November 19, 1982, for a list of the priority pollutants.) (5) The test data from conditions 1–4 must be kept on file at the facility for inspection purposes and must be compiled, summarized, and submitted to the Administrator by certified mail on a semiannual basis. The Agency will review this information and if needed, will propose to modify or withdraw the exclusion. The organics testing described in conditions 3 and 4 above is not required until May 18, 1987. The Agency's decision to conditionally exclude the treatment residue generated from the wastewater treatment system at this facility applies only to the wastewater treatment residue as described in this petition.
Tricil Environmental Systems, Inc.	Nashville, Tennessee	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F019) generated from chemical conversion coating of aluminum after November 17, 1986. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern, the facility must implement a contingency testing program for the petitioned wastes. This testing program must meet the following conditions for the exclusion to be valid: (1) Each batch of treatment residue must be representatively sampled and tested using the total oil and grease test and the EP Toxicity test (or the Oily Waste EP test, if the oil and grease content of the waste exceeds one percent) for arsenic, barium, cadmium, chromium, lead, selenium, silver, mercury, and nickel. If the extract concentrations for chromium, lead, arsenic, and silver exceed 1.1 ppm; barium levels exceed 22.2 ppm; cadmium and selenium levels exceed 0.22 ppm; mercury levels exceed 0.044 ppm; or nickel levels exceed 7.8 ppm, the waste will be re-treated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (2) Each batch of treatment residue must be tested for reactive and leachable cyanide. If the reactive cyanide levels exceed 250 ppm or leachable cyanide levels (using the EP Toxicity test without acetic acid adjustment) exceed 4.4 ppm, the waste must be re-treated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (3) Each batch of the waste must be tested for the total content of the following organic toxicants. If the total content of any of the constituents exceeds the maximum levels shown, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. Compound and Maximum Acceptable Levels (ppm) Acrolein, 363 Anthracene, 492 Benzene, 0.68 p-Chloro-m-cresol, 848 1,1-Dichloroethane, 0.068 Fluorene, 66.7 Methylene chloride, 52.4 n-Nitrosodiphenylamine, 76.1 Phenanthrene, 89 Tetrachloroethylene, 1.2 Trichloroethylene, 3.78 Chloroform, 0.081 1,2-Dichloroethane, 0.053 2,4-Dimethylphenol, 79.7 Vinyl chloride, 1.16 1,2-Diphenyl hydrazine, 0.005 (4) A grab sample must be collected from each batch to form one monthly composite sample, which must be tested using GC/MS analysis for the compounds shown above as well as the remaining organics on the priority pollutant list. (See 47 FR 52309, November 19, 1982, for a list of the priority pollutants.) (5) The test data from conditions 1–4 must be kept on file at the facility for inspection purposes and must be compiled, summarized, and submitted to the Administrator by certified mail on a semiannual basis. The Agency will review this information and if needed, will propose to modify or withdraw the exclusion. The organics testing described in conditions 3 and 4 above is not required until May 18, 1987. The Agency's decision to conditionally exclude the treatment residue generated from the wastewater treatment system at this facility applies only to the wastewater treatment residue as described in this petition.

TABLE 1.—WASTES EXCLUDED FROM NON-SPECIFIC SOURCES—Continued

Facility	Address	Waste description
Tricil Environmental Systems, Inc.	Muskegon, Michigan	Dewatered wastewater treatment sludges (EPA Hazardous Waste No. F006) generated from electroplating operations after November 17, 1986. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern, the facility must implement a contingency testing program for the petitioned wastes. This testing program must meet the following conditions for the exclusion to be valid: (1) Each batch of treatment residue must be representatively sampled and tested using the total oil and grease test and the EP Toxicity test (or the Oily Waste EP test, if the oil and grease content of the waste exceeds one percent) for arsenic, barium, cadmium, chromium, lead, selenium, silver, mercury, and nickel. If the extract concentrations for chromium, lead, arsenic, and silver exceed 0.315 ppm; barium levels exceed 6.3 ppm; cadmium and selenium levels exceed 0.063 ppm; mercury levels exceed 0.013 ppm; or nickel levels exceed 2.2 ppm, the waste will be re-treated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (2) Each batch of treatment residue must be tested for reactive and leachable cyanide. If the reactive cyanide levels exceed 250 ppm or leachable cyanide levels (using the EP Toxicity test without acetic acid adjustment) exceed 1.26 ppm, the waste must be re-treated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (3) Each batch of the waste must be tested for the total content of the following organic toxicants. If the total content of any of the constituents exceeds the maximum levels shown, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. Compound and Maximum Acceptable Levels (ppm) Acrolein, 56.8 Anthracene, 76.8 Benzene, 0.106 p-Chloro-m-cresol, 133 1,1-Dichloroethane, 0.01 Fluorene, 10.4 Methylene chloride, 8.2 Methyl ethyl ketone, 326 n-Nitrosodiphenylamine, 11.9 Phenanthrene, 14 Tetrachloroethylene, 0.188 Trichloroethylene, 0.59 Chloroform, 0.013 1,2-Dichloroethane, 0.0083 1,2-trans-Dichloroethylene, 231 2,4-Dimethylphenol, 12.5 Vinyl chloride, 0.18 (4) A grab sample must be collected from each batch to form one monthly composite sample, which must be tested using GC/MS analysis for the compounds shown above as well as the remaining organics on the priority pollutant list. (See 47 FR 52309, November 19, 1982, for a list of the priority pollutants.) (5) The test data from conditions 1–4 must be kept on file at the facility for inspection purposes and must be compiled, summarized, and submitted to the Administrator by certified mail on a semiannual basis. The Agency will review this information and if needed, will propose to modify or withdraw the exclusion. The organics testing described in conditions 3 and 4 above is not required until May 18, 1987. The Agency's decision to conditionally exclude the treatment residue generated from the wastewater treatment system at this facility applies only to the wastewater treatment residue as described in this petition.

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES

Facility	Address	Waste description
Tricil Environmental Systems, Inc.	Hilliard, Ohio	Spent pickle liquor (EPA Hazardous Waste No. K062) generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332) after November 17, 1986. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern, the facility must implement a contingency testing program for the petitioned wastes. This testing program must meet the following conditions for the exclusions to be valid: (1) Each batch of treatment residue must be representatively sampled and tested using the total oil and grease test and the EP Toxicity test (or the Oily Waste EP test, if the oil and grease content of the waste exceeds one percent) for arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver and nickel. If the extract concentrations for chromium, lead, arsenic, barium, and silver exceed 6.3 ppm; cadmium and selenium exceed 0.063 ppm; mercury levels exceed 0.013 ppm; or nickel levels exceed 2.2 ppm, the waste will be retreated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR 270. (2) Each batch of treatment residue must be tested for reactive and leachable cyanide. If the reactive cyanide levels exceed 250 ppm; or leachable cyanide levels (using ther EP Toxicity test without acetic acid adjustment) exceed 1.26 ppm, the waste must be retreated or managed and disposed as hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (3) Each batch of waste must be tested for the total content of the following organic toxicants. If the total content of any of the constituents exceeds the maximum levels shown, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 and 265 and the permitting standards of 40 CFR Part 270. Compound and Maximum Acceptable Levels (ppm) Acrolein, 56.8 Anthracene, 76.8 Benzene, 0.106 p-Chloro-m-cresol, 133 1,1-Dichloroethane, 0.01 Fluorene, 10.4 Methylenechloride, 8.2 Methyl ethyl ketone, 326 n-Nitrosodiphenylamine, 11.9 Phenanthrene, 14 Tetrachloroethylene, 0.188 Trichloroethylene, 0.59 Chloroform, 0.013 1,2-Dichloroethane, 0.0083 1,2-trans-Dichloroethylene, 231 2,4-Dimethylphenol, 12.5 Vinyl chloride, 0.18 1,2-Diphenyl hydrazine, 0.001

TABLE 2.—WASTES EXCLUDED FROM SPECIFIC SOURCES—Continued

Facility	Address	Waste description
		(4) A grab sample must be collected from each batch to form one monthly composite sample, which must be tested using GC/MS analysis for the organic compounds shown above, as well as the remaining organics on the priority pollutant list (see 47 FR 52309, November 19, 1982, Appendix A–126 Priority Pollutants). (5) The test data from conditions 1–4 must be kept on file at the facility for inspection purposes and must be compiled, summarized, and submitted to the Administrator by certified mail on a semiannual basis. The Agency will review this information and if needed, will propose to modify or withdraw the exclusion. The organics testing described in conditions 3 and 4 above is not required until May 18, 1987. The Agency's decision to conditionally exclude the treatment residue generated from the wastewater treatment system at this facility applies only to the wastewater treatment residue described in this petition.
Tricil Environmental System, Inc	Muskegon, Michigan	Spent pickle liquor (EPA Hazardous Waste No. K062) generated by steel finishing operations of facilities within the iron and steel industry (SIC Codes 331 and 332); after November 17, 1986. To ensure that hazardous constituents are not present in the waste at levels of regulatory concern, the facility must implement a contingency testing program for the petitioned wastes. This testing program must meet the following conditions for the exclusion to be valid: (1) Each batch of treatment residue must be representatively sampled and tested using the total oil and grease test and the EP Toxicity test (or the Oily Waste EP test, if the oil and grease content of the waste exceeds one percent) for arsenic, barium, cadmium, chromium, lead, mercury, selenium, silver and nickel. If the extract concentrations for chromium, lead, arsenic, barium, and silver exceed 6.3 ppm, cadmium and selenium exceed 0.063 ppm; mercury levels exceed 0.013 ppm; or nickel levels exceed 2.2 ppm, the waste will be retreated or managed and disposed as a hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR 270. (2) Each batch of treatment residue must be tested for reactive and leachable cyanide. If the reactive cyanide levels exceed 250 ppm; or leachable cyanide levels (using the EP Toxicity test without acetic acid adjustment) exceed 1.26 ppm, the waste must be retreated or managed and disposed as hazardous waste under 40 CFR Parts 262 to 265 and the permitting standards of 40 CFR Part 270. (3) Each batch of waste must be tested for the total content of the following organic toxicants. If the total content of any of the constituents exceeds the maximum levels shown, the waste must be managed and disposed as a hazardous waste under 40 CFR Parts 262 and 265 and the permitting standards of 40 CFR Part 270: Compound and Maximum Acceptable Levels (ppm) Acrolein, 56.8 Anthracene, 76.8 Benzene, 0.106 p-Chloro-m-cresol, 133 1,1-Dichloroethane, 0.01 Fluorene, 10.4 Methylenechloride, 8.2 Methyl ethyl ketone, 326 n-Nitrosodiphenylamine, 11.9 Phenanthrene, 14 Tetrachloroethylene, 0.188 Trichloroethylene, 0.59 Chloroform, 0.013 1,2-Dichloroethane, 0.0083 1,2-trans-Dichloroethylene, 231 2,4-Dimethylphenol, 12.5 Vinyl chloride, 0.18 1,2-Diphenyl hydrazine, 0.001 (4) A grab sample must be collected from each batch to form one monthly composite sample, which must be tested using GC/MS analysis for the organic compounds shown above, as well as the remaining organics on the priority pollutant list (see 47 FR 52309, November 19, 1982, Appendix A–126 Priority Pollutants). (5) The test data from conditions 1–4 must be kept on file at the facility for inspection purposes and must be compiled, summarized, and submitted to the Administrator by certified mail on a semiannual basis. The Agency will review this information and if needed, will propose to modify or withdraw the exclusion. The organics testing described in conditions 3 and 4 above is not required until May 18, 1987. The Agency's decision to conditionally exclude the treatment residue generated from the wastewater treatment system at this facility applies only to the wastewater treatment residue described in this petition.

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40 CFR Part 261

[SW-FRL-3112-7]

Hazardous Waste Management System; Identification and Listing of Hazardous Waste; Final Denials

AGENCY: Environmental Protection Agency.

ACTION: Final rule.

SUMMARY: The Environmental Protection Agency (EPA) today is announcing its decision to deny the petitions submitted by two petitioners to exclude their solid wastes from the lists of hazardous wastes contained in 40 CFR 261.31 and 261.32. This action responds to delisting petitions submitted under 40 CFR 260.20, which allows any person to petition the Administrator to modify or revoke any provision of Parts 260 through 265, 124, 270, and 271 of Title 40 of the Code of Federal Regulations, and 40 CFR 260.22, which specifically provides generators the opportunity to petition the Administrator to exclude a waste on a "generator-specific basis" from the hazardous waste lists. Our basis for denying these petitions is that the petitioners have not substantiated their claims that the wastes are non-hazardous. The effect of this action is that all of this waste must be handled as hazardous waste in accordance with 40 CFR Parts 262 through 266, and Parts 270, 271 and 124.

EFFECTIVE DATE: May 18, 1987.

ADDRESSES: The public docket for these final petition denials is located in the Sub-basement, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, and is available for public viewing from 9:30 a.m. to 3:30 p.m., Monday through Friday, excluding Federal holidays. Call Mia Zmud at (202) 475–9327 or Kate Blow at (202) 382–4675 for appointments. The reference number for this docket is "F–86–CHDF–FFFFF." The public may copy a maximum of 50 pages of materials from any one regulatory docket at no cost. Additional copies cost $.20/page.

FOR FURTHER INFORMATION CONTACT: RCRA Hotline, toll free at (800) 424–9347, or at (202) 382–3000. For technical information, contact Lori DeRose, Office of Solid Waste (WH–562B), U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, (202) 382–5096.

SUPPLEMENTARY INFORMATION: On October 22, 1986, EPA proposed to deny

specific wastes generated by several facilities, including: (1) Chevron, U.S.A., located in Port Arthur, Texas (see 51 FR 37422); and (2) E.I. Du Pont de Nemours & Company, located in Beaumont, Texas (see 51 FR 37423). The Agency had previously evaluated both of these petitions which are discussed in today's notice. Based on our review at that time, these petitioners were granted temporary exclusions. Due to changes in the delisting criteria required by the Hazardous and Solid Waste Amendments of 1984, however, these petitions have been evaluated both for the factors for which the wastes were originally listed, as well as other factors and toxicants which reasonably could cause the wastes to be hazardous. Based upon these evaluations, the Agency has determined that both of the petitioning facilities have not substantiated their claims that the wastes are non-hazardous; therefore, the Agency is denying the petitions submitted by these petitioning facilities and is revoking the temporary exclusions currently held by these facilities.

The denials made final here involve the following petitioners:

Chevron, U.S.A., Port Arthur, Texas; and E.I. Du Pont de Nemours & Company, Beaumont, Texas.

I. Chevron, U.S.A.

A. Proposed Denial

Chevron, U.S.A. (Chevron), has petitioned the Agency to exclude its wastewater treatment sludge from EPA Hazardous Waste Nos. K048 and K051 based on the low concentrations and immobilization of the listed constituents in the waste. Data submitted by Chevron, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[1] (See 51 FR 37422–37423, October 22, 1986 for a more detailed explanation of why the Agency proposed to deny Chevron's petition.)

B. Agency Response to Public Comments

The Agency received comments from Chevron regarding the proposed denial of its petitioned waste streams. Chevron specifically requested that the Agency discuss the evaluation of the slop oil emulsion solids, listed as EPA Hazardous Waste No. K049. Chevron revised their original petition to include this waste on November 6, 1981 and subsequently received a temporary exclusion for this waste, the DAF float, and the API separator sludge. Chevron provided only EP toxicity analyses of the slop oil emulsion solids for lead and chromium. Chevron did not provide total constituent analyses, oil and grease analyses, or ignitability, corrosivity, and reactivity test results for this waste. Furthermore, Chevron did not discuss sampling procedures followed during the collection of the four samples on which the EP toxicity analyses for lead and chromium were conducted, nor did they provide annual or maximum waste generation rates. The Agency, therefore, was not able to evaluate the EP toxicity data submitted because we could not determine whether the samples were representative of the slop oil emulsion solids and an estimated waste generation rate was not available for use in the VHS model evaluation. Finally, the Agency notes that Chevron did not respond to the Agency's requests for additional information regarding the slop oil emusion solids required by the Hazardous and Solid Waste Amendments of 1984 (*e.g.*, January 6, 1984; March 6, 1984; November 26, 1984; and September 18, 1985) and, therefore, the Agency could not evaluate this waste to determine whether or not any other toxicants were present in the waste at levels of regulatory concern.[2]

Chevron also commented that the date of their temporary exclusion was cited incorrectly in the proposed denial. The Agency agrees with Chevron that the date of the temporary exclusion should have been reported as February 12, 1982. Chevron also submitted comments that clarify information presented on the emulsion solids which should have been presented in the Agency's proposal denial. Specifically, Chevron states that their present crude refining capacity is 418,000 barrels per day; that heavy solids that settle to the bottom of the API separators are no longer routed to an accumulator settling tank, but removed periodically and disposed off site; and that DAF float is no longer recycled to the API separators but routed to an oil recovery unit for recovery of the recyclable oil. Chevron also claims that they have not disposed EPA Hazardous Waste Nos. K048, K049, and K051 on site since November 1980. Chevron also explained that because the Agency was not considering site-specific factors in the VHS model evaluation, Chevron decided not to conduct further sampling and analyses of their petitioned wastes.

C. Final Agency Decision

For the reasons stated in the proposal, the Agency believes that the API separator sludge and dissolved air flotation (DAF) float generated by Chevron are hazardous and as such should not be excluded from hazardous waste control. In addition, the Agency believes that Chevron has been given an adequate period of time to provide information necessary to determine whether or not the slop oil emulsion solids are hazardous and, therefore, also is denying the petition as incomplete. The Agency, therefore, is denying a final exclusion to Chevron, U.S.A. for its wastewater treatment sludges, listed as EPA Hazardous Waste No. K048, K049, and K051 which are generated at its integrated refinery in Port Arthur, Texas. By this action, the Agency also withdraws the temporary exclusion granted for these wastes on February 12, 1982. The Agency is denying Chevon's petition, in part, due to the levels of mobile chromium, accordingly, we made the denial effective in 6 months even though a portion of the petition has been denied due to lack of information.

II. E.I. Du Pont de Nemours & Company

A. Proposed Denial

E.I. Du Pont de Nemours & Company, Beaumont Works, (Du Pont) has petitioned the Agency to exclude its wastewaters from EPA Hazardous Waste Nos. K103 and K104 based on the low concentration and immobilization of the listed constituents in the waste. Data submitted by Du Pont, however, fails to substantiate its claim that the listed constituents are essentially present in an immobile form.[3] (See 51 FR 37423–37427, October 22, 1986, for a more detailed explanation of why the Agency proposed to deny Du Pont's petition.)

B. Agency Response to Comments

The Agency received comments from Du Pont regarding the proposed denial of their petition. Du Pont specifically commented on the following items: (1) The constituents evaluated by the Agency, (2) the VHS model, (3) the use of average vs. maximum values, (4) the Agency's toxicity data base, and (5) errors in the VHS model calculations.

Du Pont commented that the Agency should only consider the constituents associated with the K103 and K104

[1] Chevron, U.S.A. was granted a temporary exclusion for these wastes on February 12, 1982.

[2] The Agency notes that a discussion of Chevron's slop oil emulsion solids was not presented in the Agency's proposal to deny Chevron's API separator sludge and the DAF float. The Agency believes, however, that since Chevron's petition was proposed to be denied, among other reasons, on the grounds that it was incomplete and since the Agency has not received sufficient information to evaluate the slop oil emulsion solids, that the Agency is justified in presenting a final decision regarding the slop oil emulsion solids at this time.

[3] Du Pont was granted a temporary exclusion for this waste on November 22, 1982 (see 47 FR 52680).

wastes during the delisting evaluation, and thus should not consider constituents such as tetrachloroethylene, chloroform, and carbon tetrachloride in the OLM/VHS model analyses of the lagoon sludge and water since these constituents are from other wastes. Du Pont believes that it is beyond the Agency's statutory authority to consider the constituents of other unrelated streams in making a delisting decision. The Agency disagrees with the petitioner's interpretation of the Agency's statutory authority. The mixture of a hazardous waste and a solid waste is a hazardous waste (40 CFR 261.3(a)(2)(iv)). Thus, the combined wastewaters are a hazardous waste. The Hazardous and Solid Waste Amendments of 1984 (HSWA) require that, when evaluating delisting petitions, the Agency consider any factors that could reasonably cause a waste to be hazardous, including additional constituents. This is what the Agency has done. Du Pont also questioned the appropriateness of the Agency's evaluation of the lagoon sludge. The Agency believes that the lagoon sludge is a hazardous waste, as defined under 40 CFR 261.3(c)(2)(i), which states that "any solid waste generated from the treatment, storage or disposal of a hazardous waste . . . is a hazardous waste," because the sludge may have been generated from the settling of solids from the K103 and K104 wastes, in addition to other wastes which pass through the lagoon. Thus, the Agency considered the lagoon sludge as part of the delisting evaluation. If the petitioner had shown that the sludge was not in any way derived from the K103 and K104 wastes, this evaluation would not have been necessary. However, since such evidence was not provided, the Agency assumed that the sludge was, at least in part, derived from the petitioned wastes.

Du Pont also commented that the application of the VHS model was inappropriate because they believe that the VHS model is flawed. The VHS model includes the parameters C_o, which is the leachate concentration of contaminants at the waste boundary in the uppermost portion of the aquifer, and Z, the depth to which the toxicants penetrate into the aquifer at the facility boundary. Du Pont described the distance Z as the mixing zone formed when the leachate from the landfill combines with and diffuses into the flowing ground water beneath the landfill. Du Pont believes that the Agency has assumed that C_o within Z is the same as the leachate within the landfill. This is not a correct interpretation of the Agency's definition of C_o. The Agency assumes that C_o remains constant until the leachate reaches the upper aquifer boundary, where dilution and dispersion begin to occur. Du Pont also claims that the Agency ignores the fact that the rate of leaking and ground water velocity affect the concentration in Z. The Agency agrees with the commenter that variations in the rate of contaminant leaking and ground water velocity will affect the concentrations in the contaminant plume. The Agency, however, in the development of a generic reasonable worst-case scenario, is not able to consider such variations which occur on a seasonal and site-specific basis. The petitioner has not provided any suggestions on how such factors could actually be incorporated into the VHS model analysis if a site-specific evaluation were made. Du Pont went on to add that the VHS model is flawed because it does not allow for such site-specific evaluations, including the use of waste geometrics and site hydrogeologic conditions. In response, the Agency reiterates that the purpose of the VHS model was not to provide for a site-specific evaluation, but to evaluate a reasonable worst-case scenario that may occur. The Agency may, in the future, consider conditional delistings predicated on disposal at a particular site, however, at this time, the Agency is unable to identify all necessary factors in such a demonstration.

The commenter also recommended that the Agency use its proposed toxicity characteristic, which includes a ground water transport model, (see 51 FR 21648–21693, June 13, 1986) with modifications suggested by the Chemical Manufacturer's Association (CMA) rather than the results of the VHS model. The Agency notes that it has not completed its evaluation of the comments on the proposed toxicity characteristic. When this proposal is finalized, the Agency will consider using the procedure in the evaluation of delisting petitions. Until that time, however, the Agency intends to continue using the Organic Leachate Model (OLM) and the VHS model to evaluate the potential of wastes to contaminate the ground water. Du Pont also commented that the application of the VHS model is inappropriate because they claim the ground water beneath the site is not potable. Assuming for the purpose of argument that Du Pont's assertion is true, the Agency does not believe that such a site-specific factor should be considered in this delisting because Du Pont has not provided a compelling rationale for why this waste could not be transported to another location for disposal where a useable aquifer might be affected.

Du Pont commented that the Agency should use average values rather than the maximum concentrations of the samples analyzed in input to the OLM and VHS models. Du Pont believes that average concentrations are more representative of what might potentially reach the environment, even under a worst-case scenario of mishandled waste. The Agency has considered the use of various parameters such as the mean, median, maximum and upper confidence limits as inputs to the models. Each of these parameters may be used under certain circumstances which are defined by the statistical characteristics of the analytical results. For example, the mean is used when the sample population is large enough and the data exhibit a normal distribution; the median is used again when the sample population is large enough and when the data exhibit a log normal distribution. The Agency believes that Du Pont's analytical results are insufficient to defend statistically the use of the mean or median, and thus the use of the maximum values was appropriate.[4] (The Agency notes that if the use of the mean had been appropriate, Du Pont's wastes still would not have passed the VHS model evaluation for a number of constituents.)

Du Pont also commented that they were unsure how EPAs developed the regulatory standards that are used in the VHS model analysis. Du Pont requested that the Agency provide the toxicological data used to develop the regulatory standards. The Agency has made this data available to Du Pont and placed additional copies in the public docket to this notice and other notices recently published (See 51 FR 37140, October 17, 1986; 51 FR 37299, October 21, 1986; and 51 FR 39968, November 3, 1986).

The Agency also indicated in this data supplied to the Docket, the approach used to derive these standards. For those waste constituents not known to display carcinogenic properties, reference doses (RfDs) were used. The RfD is an estimate (with uncertainty spanning perhaps an order of magnitude

[4] The paper entitled "Sample and Analysis for Delisting Data Verification/Delisting Spot Checks" (from Proceedings of the 2nd U.S. EPA Symposium on Solid Waste Testing and Quality Assurance, July 15–18, 1986, Washington, DC), in the public docket provides some initial guidance on the factors which the Agency believes may be important in using non-parametric statistical techniques to determine the sample size that will allow the use of values other than the maximum in the VHS analysis.

or greater) of a daily exposure for the human population (including sensitive subpopulations) that is likely to be without an appreciable risk of deleterious effects even if exposure occurs daily during a lifetime. An RfD is derived by dividing the experimentally determined no-observed-adverse-effect-level or low-observed-adverse-effect-level by the appropriate uncertainty factor.

For those waste constituents known to display carcinogenic properties, Risk-Specific Doses (RSDs) were used. The RSDs is simply an average daily dose corresponding to a specific level of excess lifetime cancer risk. The RSD for a chemical is derived from the estimated human unit cancer risk or q_1^* using the following formula:

$$\text{Dose} = \frac{\text{specified level of lifetime risk}}{\text{unit cancer risk or } q_1^*}$$

For the purposes of the delisting effort, it was necessary for each of the RfDs and RSDs to be defined as the maximum allowable concentration of the constituent in water. As stated previously, however, both RfDs and RSDs are daily doses, generally measured in mg/kg body weight/day. To convert a daily dose into the corresponding concentration in water, the following formula is used:

$$\text{Water concentration (mg/L)} = \frac{\text{RfD or RSD (mg/kg bw/day)} \times \text{body weight (kg)}}{\text{liters of water consumed per day}}$$

Our conversions were based upon the well-established and widely-accepted assumptions that the adult male's average body weight is 70 kg and that the average volume of water consumed by an adult male is 2 liters per day.

Du Pont restated their support for the regulatory standards proposed by CMA in its comments on the proposed toxicity characteristic. Du Pont believes that, using the modified (proposed) toxicity characteristic and regulatory standards suggested by CMA, the constituents of concern in the petitioned wastes will be below levels of regulatory concern. While the Agency is currently evaluating the comments submitted on the proposed toxicity characteristic and may incorporate a number of the suggested changes into the revised version, it is inappropriate for the Agency to use the proposed toxicity characteristic in evaluating delisting petitions at this time. DuPont was also concerned with what appeared to be apparent differences between the standards for several organics used to evaluate their petition and those used in the proposed toxicity characteristic. The Agency notes that these differences are purely a result of a policy decision to use different risk factors associated with carcinogens identified by the Agency's Carcinogen Assessment Group. Class A, B, and C carcinogens were assigned risk factors of 10^{-5}, 10^{-5} and 10^{-4} respectively, for the toxicity characteristics. The delisting program however, uses risk factors of 10^{-6}, 10^{-6}, and 10^{-5} for Class A, B, and C carcinogens respectively. The Agency proposed the higher risk factors in the toxicity characteristics since characteristics are broad measures designed to capture wastes which are clearly hazardous. (See 45 FR 33111–33112, May 19, 1980.) Delisting decisions use more stringent standards since they represent a more refined consideration of specific factors which might cause the waste to be hazardous. (See 40 CFR 261.11, 260.22.)

Du Pont commented that the calculated compliance point concentrations for chromium and lead in the lagoon sludge appeared to be incorrect. The Agency agrees that the published values for chromium and lead were incorrect. See Table 1 for the corrected values.

TABLE 1.—VHS MODEL: CALCULATED EP TOXIC METALS COMPLIANCE POINT CONCENTRATIONS (ppm)

Constituents	Compliance point concentrations			
	Carbon adsorber effluent	Lagoon sludge	Lagoon water	Regulatory standards
Chromium	0.0006	0.008	0.041	0.05
Lead	<.0041	.078	.0006	.05

The Agency notes that lead levels in the lagoon sludge (at the compliance point) exceed the Agency's regulatory standards and, therefore, are of regulatory concern. The Agency further notes that chromium levels in the lagoon sludge (at the compliance point) do not exceed the Agency's regulatory standard for chromium and, therefore, chromium is *not* of regulatory concern.

C. Final Agency Decision

For the reasons stated in the proposal, and the Agency's response to comments, the Agency believes that the wastewater generated by Du Pont's manufacturing process, the lagoon water, and the lagoon sludge are hazardous and as such should not be excluded from hazardous waste control. The Agency, therefore, is denying Du Pont's petition for its wastes listed as EPA Hazardous Waste Nos. K103 and K104, which are generated and stored at its facility located in Beaumont, Texas. By this action, the Agency also withdraws the temporary exclusion granted for this waste on November 22, 1982 (see 47 FR 52680).

III. Effective Date

The Hazardous and Solid Waste Amendments of 1984 amended section 3010 of RCRA to allow rules to become effective in less than six months when the regulated community does not need the six-month period to come into compliance. This is not the case, however, for the two petitioners included in this notice having their temporary exclusions revoked and final exclusions denied. They will have to revert back to handling their wastes as they did before being granted their temporary exclusions (*i.e.*, they must handle their wastes as hazardous). These petitioners will need some time to come into compliance with the RCRA hazardous waste management system. Accordingly, the effective date of the revocation of these temporary exclusions and denials is six months after publication of the final rule in the Federal Register.

IV. Regulatory Impact

Under Executive Order 12291, EPA must judge whether a regulation is "major" and, therefore, subject to the requirement of a Regulatory Impact Analysis. This regulation, which would revoke temporary exclusions and deny petitions from two facilities, is not major. The affect of this rule would increase the overall costs for the facilities which currently have temporary exclusions that are being revoked and denied. The actual costs to these companies, however, would not be significant. In particular, in calculating the amount of waste that is generated by these two facilities that currently have temporary exclusions and considering a disposal cost of $300/ton, the increased cost to these facilities is approximately $8.6 million, well under the $100 million level constituting a major regulation. In addition, some of these companies are large and, therefore, the impact of this rule will be relatively small. This rule is not a major regulation; therefore, no Regulatory Impact Analysis is required.

V. Regulatory Flexibility Act

Pursuant to the Regulatory Flexibility Act, 5 U.S.C. sections 601 through 612, whenever an Agency is required to publish a general notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis which describes the impact of the rule on small entities (*i.e.*, small businesses, small organizations, and small governmental jurisdictions). The Administrator may certify, however, that the rule will not have a significant economic impact on a substantial number of small entities.

This amendment will have the effect of increasing overall waste disposal costs. This rule only effects two facilities across different industrial segments. The overall economic impact, therefore, on small entities is small. Accordingly, I hereby certify that this regulation will not have a significant economic impact on a substantial number of small entities.

This regulation, therefore, does not require a regulatory flexibility analysis.

List of Subjects in 40 CFR Part 261

Hazardous waste, Recycling.

Authority: Sec. 3001 RCRA, 42 U.S.C. 6921.

Dated: November 7, 1986.

J.W. McGraw,

Acting Assistant Administrator, Office of Solid Waste and Emergency Response.

[FR Doc. 86-25838 Filed 11-14-86; 8:45 am]

BILLING CODE 6560-50-M

FEDERAL EMERGENCY MANAGEMENT AGENCY

44 CFR Part 64

[Docket No. FEMA 6736]

Suspension of Community Eligibility

AGENCY: Federal Emergency Management Agency, FEMA.

ACTION: Final rule.

SUMMARY: This rule lists communities, where the sale of flood insurance has been authorized under the National Flood Insurance Program (NFIP), that are suspended on the effective dates listed within this rule because of noncompliance with the floodplain management requirements of the program. If FEMA receives documentation that the community has adopted the required floodplain management measures prior to the effective suspension date given in this rule, the suspension will be withdrawn by publication in the **Federal Register.**

EFFECTIVE DATES: The third date ("Susp.") listed in the fourth column..

FOR FURTHER INFORMATION CONTACT: Frank H. Thomas, Assistant Administrator, Office of Loss Reduction, Federal Insurance Administration, (202) 646-2717, Federal Center Plaza, 500 C Street, Southwest, Room 416, Washington, DC 20472.

SUPPLEMENTARY INFORMATION: The National Flood Insurance Program (NFIP), enables property owners to purchase flood insurance at rates made reasonable through a Federal subsidy. In return, communities agree to adopt and administer local floodplain management measures aimed at protecting lives and new construction from future flooding. Section 1315 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4022), prohibits flood insurance coverage as authorized under the National Flood Insurance Program (42 U.S.C. 4001-4128) unless an appropriate public body shall have adopted adequate floodplain management measures with effective enforcement measures. The communities listed in this notice no longer meet that statutory requirement for compliance with program regulations (44 CFR Part 59 et. seq.). Accordingly, the communities will be suspended on the effective date in the fourth column. As of that date, flood insurance will no longer be available in the community. However, some of these communities may adopt and submit the required documentation of legally enforceable floodplain management measures after this rule is published but prior to the actual suspension date. These communities will not be suspended and will continue their eligibility for the sale of insurance. A notice withdrawing the suspension of the communities will be published in the **Federal Register.** In the interim, if you wish to determine if a particular community was suspended on the suspension date, contact the appropriate FEMA Regional Office or the NFIP servicing contractor.

In addition, the Federal Emergency Management Agency has identified the special flood hazard areas in these communities by publishing a Flood Hazard Boundary Map. The date of the flood map, if one has been published, is indicated in the fifth column of the table. No direct Federal financial assistance (except assistance pursuant to the Disaster Relief Act of 1974 not in connection with a flood) may legally be provided for construction or acquisition of buildings in the identified special flood hazard area of communities not participating in the NFIP and identified for more than a year, on the Federal Emergency Management Agency's initial flood insurance map of the community as having flood-prone areas. (Section 202(a) of the Flood Disaster Protection Act of 1973 (Pub. L. 93-234), as amended). This prohibition against certain types of Federal assistance becomes effective for the communities listed on the date shown in the last column.

The Administrator finds that notice and public procedure under 5 U.S.C. 553(b) are impracticable and unnecessary because communities listed in this final rule have been adequately notified. Each community receives a 6-month, 90-day, and 30-day notification addressed to the Chief Executive Officer that the community will be suspended unless the required floodplain management measures are met prior to the effective suspension date. For the same reasons, this final rule may take effect within less than 30 days.

Pursuant to the provision of 5 U.S.C. 605(b), the Administrator, Federal Insurance Administration, FEMA hereby certifies that this rule if promulgated will not have a significant economic impact on a substantial number of small entities. As stated in section 2 of the Flood Disaster Protection Act of 1973, the establishment of local floodplain management together with the availability of flood insurance decreases the economic impact of future flood losses to both the particular community and the nation as a whole. This rule in and of itself does not have a significant economic impact. Any economic impact results from the community's decision

not to (adopt) (enforce) adequate floodplain management, thus placing itself in noncompliance of the Federal standards required for community participation. In each entry, a complete chronology of effective dates appears for each listed community.

§ 64.6 List of eligible communities.

State	Location	Community No.	Effective dates of authorization/cancellation of sale of flood insurance in community	Special flood hazard areas identified	Date certain Federal assistance no longer available in special flood hazard areas
			REGION I		
Massachusetts	Braintree, town of, Norfolk County	250233C	Nov. 10, 1972, Emerg., June 1, 1978, Reg., Nov. 19, 1986, Susp.	Aug. 2, 1974, June 1, 1978 and Nov. 19, 1986.	Nov. 19, 1986.
Maine	Litchfield, town of, Kennebec County.	230238B	Feb. 18, 1976, Emerg., Nov. 19, 1986, Reg., Nov. 19, 1986, Susp.	Feb. 7, 1975, Oct. 8, 1976 and Nov. 19, 1986.	Do.
			REGION III		
Pennsylvania	Hickory, township of, Forest County.	421646B	Dec. 17, 1975, Emerg., Nov. 19, 1986, Reg., Nov. 19, 1986, Susp.	Dec. 20, 1974, Jan. 30, 1981 and Nov. 19, 1986.	Do.
Do	Hunker, borough of, Westmoreland County.	420880A	Aug. 5, 1980, Emerg., Nov. 19, 1986, Reg., Nov. 19, 1986, Susp.	Nov. 19, 1986	Nov. 19, 1987.
Do	Paint, borough of, Somerset County.	420800B	Aug. 27, 1975, Emerg., Nov. 19, 1986, Reg., Nov. 19, 1986, Susp.	July 26, 1974, Dec. 26, 1975 and Nov. 19, 1986.	Nov. 19, 1986
Do	Southwest Greensburg, borough of, Westmoreland County	420901C	June 30, 1976, Emerg., Nov. 19, 1986, Reg., Nov. 19, 1986, Susp.	Feb. 1, 1974, Sept. 26, 1975, June 30, 1976 and Nov. 19, 1986.	Do.
			REGION IV		
Kentucky	Lewisport, city of, Hancock County	210093B	May 9, 1975, Emerg., Nov. 19, 1986, Reg., Nov. 19, 1986, Susp.	Feb. 1, 1974, Oct. 17, 1975 and Nov. 19, 1986.	Do.
			REGION V		
Wisconsin	Boyceville, village of, Dunn County	550119B	June 23, 1975, Emerg., Nov. 19, 1986, Reg., Nov. 19, 1986, Susp.	June 14, 1974, Aug. 6, 1976 and Nov. 19, 1986.	Do.
Do	Mellen, city of, Ashland County	550007B	June 20, 1975, Emerg., Nov. 19, 1986, Reg., Nov. 19, 1986, Susp.	Dec. 17, 1973, May 14, 1976 and Nov. 19, 1986.	Do.
			REGION VII		
Kansas	Park City, city of, Sedgwick County.	200963A	May 28, 1982, Emerg., Nov. 19, 1986, Reg., Nov. 19, 1986, Susp.	Nov. 19, 1986	Nov. 19, 1987.
Do	Peabody, city of, Marion County	200208	Sept. 18, 1974, Emerg., Nov. 19, 1986, Reg., Nov. 19, 1986, Susp.	June 28, 1974, Nov. 21, 1975 and Nov. 19, 1986.	Nov. 19, 1986
Missouri	Flinthill, village of, St. Charles County.	290883B	July 9, 1980, Emerg., Nov. 19, 1986, Reg., Nov. 19, 1986, Susp.	Dec. 9, 1980 and Nov. 19, 1986	Do.
Do	Annada, village of, Pike County	290287A	Aug. 17, 1979, Emerg., Nov. 19, 1986, Reg., Nov. 19, 1986, Susp.	Feb. 7, 1975 and Nov. 19, 1986	Do.
			REGION X		
California	Marin County, unincorporated areas.	060173	March 1, 1982, Emerg., Nov. 19, 1986, Reg., Nov. 19, 1986, Susp.	Feb. 25, 1977 and March 1, 1982	Do.
			MINIMAL CONVERSION		
Wisconsin	Bruce, village of, Rusk County	550370	Nov. 26, 1974, Emerg., Sept. 1, 1986, Reg., Nov. 19, 1986, Susp.	May 24, 1974, May 28, 1976 and Sept. 1, 1986.	Do.

Code for reading 4th column: Emerg.—Emergency, Reg.—Regular, Susp.—Suspension.

Issued: November 7, 1986.

Harold T. Duryee,

Administrator, Federal Insurance Administration.

[FR Doc. 86-25874 Filed 11-14-86; 8:45 am]

BILLING CODE 6718-03-M

List of Subjects in 44 CFR Part 64

Flood insurance, Floodplains.

PART 44—[AMENDED]

The authority citation for Part 64 continues to read as follows:

Authority: 42 U.S.C. 4001 et. seq., Reorganization Plan No. 3 of 1978, E.O. 12127.

Section 64.6 is amended by adding in alphabetical sequence new entries to the table.

GENERAL SERVICES ADMINISTRATION

48 CFR Parts 505, 513, 519 and 552

[Acquisition Circular AC-86-7]

Increase in Thresholds for Certain Requirements Relating to Small Purchases

AGENCY: Office of Acquisition Policy, GSA.

ACTION: Temporary regulation.

SUMMARY: This Acquisition Circular temporarily amends Parts 505, 513, 519 and 552 of the General Services Administration Acquisition Regulation (GSAR), Chapter 5, to implement section 101(c) of the Continuing Resolution for Appropriations FY 1986, Title IX, section 922, (Pub. L. 99-500), enacted October 18, 1986, which increases thresholds for certain requirements relating to small purchases. The intended effect is to implement the statutory change within the General Services Administration pending a revision to the Federal Acquisition Regulation.

DATES: *Effective Date:* November 3, 1986.

Expiration Date: May 3, 1987.

FOR FURTHER INFORMATION CONTACT:
Ms. Ida Ustad, Office of GSA Acquisition Policy and Regulations (VP), 202–566–1224.

SUPPLEMENTARY INFORMATION: Pursuant to section 22(d) of the Office of Federal Procurement Policy Act, as amended, a determination has been made to waive the requirement for publication of procurement procedures for public comment before the regulation takes effect. The need to comply with statutory provisions is an urgent and compelling circumstance that makes advance publication impracticable. The Director, Office of Management and Budget (OMB), by memorandum dated December 14, 1984, exempted certain agency procurement regulations from Executive Order 12291. The exemption applies to this rule. It appears that these changes may have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et. seq.). An initial Regulatory Flexibility Analysis has been prepared and sent to the Chief Counsel for Advocacy for the Small Business Administration. The rule does not contain information collection requirements which require the approval of OMB under the Paperwork Reduction Act (44 U.S.C. 3501 et. seq.).

List of Subjects in 48 CFR Parts 505, 513, 519, and 552

Government procurement.

PARTS 505, 513, 519 AND 552—[AMENDED]

1. The authority citation for 48 CFR Parts 505, 513, 519 and 552 continues to read as follows:

Authority: 40 U.S.C. 486(c).

2. 48 CFR Parts 505, 513, 519 and 552 are amended by the following Acquisition Circular:

General Services Administration Acquisition Regulation

Acquisition Circular (AC–86–7)

To: All GSA contracting activities.

Subject: Increase in thresholds for certain requirements relating to small purchases.

1. *Purpose.* This Acquisition Circular temporarily amends the General Services Administration Acquisition Regulation (GSAR), Chapter 5 (APD 2800.12) to implement section 101(c) of the Continuing Resolution for Appropriations FY 1987, Title IX, section 922, (Pub. L. 99–500), enacted October 18, which increases thresholds for certain requirements relating to small purchases.

2. *Background.* Section 101(c) of the Continuing Resolution for Appropriations FY 1987, Title IX, section 922, amended the Small Business Act to increase the threshold for use of small business-small purchase set-asides from $10,000 to $25,000 and amended the Small Business Act and the Office of Federal Procurement Policy Act to increase the threshold for publicizing proposed procurements in the Commerce Business Daily (CBD) from $10,000 to $25,000 with certain limitations for posting and publicizing certain procurements between $10,000 and $25,000. Specifically, proposed procurements that are expected to exceed $10,000 must be publicized in the CBD if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors. For all proposed procurements expected to exceed $10,000 but not to exceed $25,000, either a notice containing information comparable to that required for CBD publication or a copy of the solicitation must be posted, for a period of not less than 10 calendar days, in a public place at the contracting office issuing the solicitation.

3. *Effective date.* November 3, 1986.

4. *Expiration date.* This Circular expires May 3, 1987, unless canceled earlier.

5. *Reference to regulation.* Sections 5.101, 5.201, 13.105, 19.501(f)(1), 19.508(a) and 52.219–4 of the Federal Acquisition Regulation (FAR) and Sections 505.101(c), 505.201, 513.105, 519.501, 519.502–1 (b), (d), and (g), 519.505(a), 519.508 and 552.219–4 of the General Services Administration Acquisition Regulation (GSAR).

6. *Explanation of changes.*

a. Section 505.101 is amended to add paragraph (c) to read as follows:

505.101 Methods of disseminating information.

* * * * *

(c) For all proposed procurements expected to exceed $10,000 but not to exceed $25,000, the contracting officer shall post on a bulletin board or similar display case either a notice containing information comparable to that required for Commerce Business Daily (CBD) publication or a copy of the solicitation, in a public place at the contracting office issuing the solicitation, for a period not less than 10 calendar days. Contracting offices may post the notice or solicitation at the Business Service Center (BSC) when located in the same geographic area as the BSC. Unless there is an unusual and compelling need for the supplies or services being procured, the closing date established for receipt of quotes must be after the 10 day period for posting the information or solicitation.

b. Section 505.201 is revised to read as follows:

505.201 General.

As required by the Small Business Act and the Federal Procurement Policy Act, contracting officers shall furnish, directly or through the local BSC, for publication in the Commerce Business Daily (CBD) notices of proposed contract actions expected to exceed $10,000, but not exceed $25,000 if there is not a reasonable expectation that at least two offers will be received from responsive and responsible offerors and notices of proposed contract actions expected to exceed $25,000 as specified in FAR 5.201(b). The references in FAR 5.201(b)(1) to the threshold in FAR 5.201(a) should be interpreted to mean $25,000. Contracting officers that transmit notices directly to the CBD must provide a copy of the notice to the local BSC.

c. Section 513.105 is added to read as follows:

513.105 Small business-small purchase set-asides.

The reference to $10,000 in FAR 13.105(a) should be interpreted to mean $25,000. Except as provided in FAR 13.105 (b), (c), and (d), each acquisition of supplies or services that has an anticipated value of $25,000 or less and is subject to small purchase procedures, shall be reserved exclusively for small business concerns. This shall be accomplished by using the category of set-asides established specifically for small purchases and identified as small business-small purchase set-asides.

d. Section 519.501 is amended to add a sentence at the beginning of the section text to read as follows:

519.501 General.

The reference to $10,000 in FAR 19.501(f)(1) should be interpreted to mean $25,000.

* * * * *

e. Section 519.502–1 is amended to revise paragraphs (b), (d) and the title of paragraph (g) to read as follows:

519.502–1 Requirements for setting aside an acquisition.

* * * * *

(b) *Small purchases.* Procurements that have an anticipated dollar value of $25,000 or less and are subject to small purchase procedures shall be reserved exclusively for small business concerns. Offers shall be solicited from small business concerns only unless the contracting officer makes a determination that there is no reasonable expectation that two or more small business concerns will submit acceptable offers at a reasonable price. If the procurement is not set-aside the contract file must be documented accordingly.

* * * * *

(d) *Construction contracts from $25,000 to $500,000.* In an understanding with the SBA, every proposed procurement for construction, including alterations, maintenance, and repairs estimated to be in excess of $25,000 and under $500,000 shall be considered individually as though the SBA had initiated a set-aside request and shall be

set-aside, except as otherwise provided in GSAR 519.502–1 (e) and (f).

* * * * *

(g) *Building service contracts in excess of $25,000.*

* * * * *

f. Section 519.505 is amended by revising paragraph (a) to read as follows:

519.505 Rejecting set-aside recommendations.

(a) When the contracting officer determines that a procurement cannot be restricted for small business, the reasons for this determiniation shall be recorded on GSA Form 2689, Procurement Not Set-Aside and submitted for review. When small purchases are not set-aside for small business, the contracting officer need only doucment the file.

g. Section 519.508 is added to read as follows:

519.508 Solicitation provisions and contract clauses.

The reference to $10,000 in FAR 19.508(a)(2) should be interpreted to mean $25,000.

h. Section 552.219–4 is added to read as follows:

552.219–4 Notice of Small Business-Small Purchase Set-Aside.

The reference to $10,000 in the prescription for use of FAR 52.219–4 should be interpreted to mean $25,000.

Patricia A. Szervo,

Associate Administrator for Acquisition Policy.

November 3, 1986.

[FR Doc. 86–25811 Filed 11–14–86; 8:45 am]

BILLING CODE 6820–61–M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States; Correction

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule; correction.

SUMMARY: The Fish and Wildlife Service is correcting errors in the rule prescribing the late open seasons, hunting hours, hunting areas, and daily bag and possession limits for general waterfowl seasons in Illinois and Colorado and the sandhill crane season in New Mexico that appeared in the **Federal Register** on September 30, 1986 (51 FR 34623).

DATE: Effective on November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Rollin D. Sparrowe, Chief, Office of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, Matomic Building—Room 536, Washington, DC 20240. Phone (202) 254–3207.

SUPPLEMENTARY INFORMATION: In the September 30, 1986, **Federal Register** (51 FR 34623) the Fish and Wildlife Service published a final rule prescribing the late open seasons, hunting hours, hunting areas, and daily bag and possession limits for general waterfowl seasons and certain other migratory game bird seasons in the conterminous United States. The rule contained errors in the waterfowl season entries for Illinois and Colorado and the sandhill crane season entry for New Mexico which are discussed briefly below and are corrected by this notice.

Public comment was received on proposed rules for the seasons and limits contemplated herein. These comments were addressed in the **Federal Register** dated June 6, 1986 (51 FR 20677), August 15, 1986 (51 FR 29274), and September 12, 1986 (51 FR 32460). The corrections are typographical in nature, and because the seasons involved have already begun, immediate action is essential. By the nature of the corrections and the time available, the changes must become effective immediately.

PART 20—[AMENDED]

The following corrections are made in Migratory Bird Hunting; Late Seasons, and Bag and Possession Limits for Certain Migratory Game Birds in the United States published in the September 30, 1986, **Federal Register** (51 FR 34623).

1. On page 34632 in the issue of September 30, 1986, under the heading *Illinois*, the possession limit of "2" Canada geese in the counties of McHenry, Lake, Kane, DuPage, Cook, Kendall, Grundy, Will and Kankakee during the October 15 through November 23, season is corrected to read "4".

2. On page 34637 in the issue of September 30, 1986, under the heading *Colorado*, the duck season dates of "October 4 through October 11" are corrected to read "October 4 through October 17".

3. On page 34638 in the issue of September 30, 1986, under the heading *Seasons, limits and shooting hours for sandhill cranes*, subheading *Central Flyway*, paragraph (b), which reads "In the New Mexico Counties of Chaves, Curry, DeBaca, Eddy, Lea, Quay and Roosevelt the inclusive season dates are October 25, 1986, through January 25, 1987." is revised to read as follows:

"In the New Mexico Counties of Chaves, Curry, DeBaca, Eddy, Lea, Quay and Roosevelt the inclusive dates are October 25, 1986, through January 25, 1987. In the Middle Rio Grande Valley Area (see State regulations for boundary description) the inclusive season dates are October 16, 1986, through October 23, 1986, and October 24, 1986, through October 31, 1986. Hunting in the Middle Rio Grande Valley Area will be by special permit issued by the State; each permittee may take 3 sandhill cranes per season."

Dated: November 5, 1986.

P. Daniel Smith,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–25853 Filed 11–14–86; 8:45 am]

BILLING CODE 4310–55–M

50 CFR Part 36

Closure of Amchitka Island, a Unit of the Alaska Maritime National Wildlife Refuge, to Public Access, Occupancy and Use

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: In the interests of national security and according to the National Wildlife Refuge System Administration Act (16 U.S.C. 668dd) and Executive Order 1733, the U.S. Fish and Wildlife Service (Service) closes Amchitka Island to all forms of public access, occupancy and use.

The U.S. Navy will be constructing facilities of a sensitive nature on Amchitka Island. In order to secure and protect the Island and its installations, the Island will be closed to all forms of public use such as: hunting, sport fishing, camping, photography, hiking and other related activities. Use of the pier and associated areas in Constantine Harbor for storage of commercial crab pots or any other use by commercial fishermen; and unauthorized trespass/entry of any type, either by foot, all terrain vehicle, snowmobile, airplane or any type of mechanized means by the general public, is prohibited.

Personnel stationed at Amchitka for official business are authorized to engage in sport fishing activity on the Island.

EFFECTIVE DATE: December 17, 1986.

FOR FURTHER INFORMATION CONTACT: William Knauer, Refuges and Wildlife, Fish and Wildlife Service, 1011 East Tudor Road, Anchorage, Alaska 99503, Telephone (907) 786–3399 or the Refuge Manager, 202 Pioneer Ave, Homer, Alaska 99603, Telephone (907) 235–6546.

SUPPLEMENTARY INFORMATION: Executive Order 1733, dated March 3, 1913, reserved the Aleutian Islands as a wildlife and fisheries refuge, but only insofar as it *shall not interfere with the use of the Islands for military or naval purposes.* Amchitka Island is part of the Alaska National Wildlife Refuges, as established by the Alaska National Interest Lands Conservation Act (ANILCA) dated December 2, 1980. Section 1310 of ANILCA (16 U.S.C. 3199) allows the placement of new facilities for national defense purposes, but only after consultation by the requesting agency and in accordance with terms mutually agreed upon to minimize adverse impacts. A Memorandum of Agreement (MOA) for Amchitka Island, with the U.S. Navy was signed on May 12, 1986, and authorizes the Navy to establish a facility for national defense. Part of the agreement states that the Service will provide closure regulations to protect U.S. interests. The Navy wishes to coordinate its use of Amchitka Island with the Service to preserve the integrity of the Service's programs of minimizing damage to designated wilderness and to recover and reestablish the endangered Aleutian Canada goose.

This rule executes those closure provisions of the MOA to provide for the national security of the U.S. and to assure public notice of the intent of this closure.

Since this action is necessary for national security purposes involving a military affairs function, the rulemaking provision of 5 U.S.C. 553 does not apply. Similarly, the provisions of Executive Order 12291 and 5 U.S.C. 601 are not applicable.

Paperwork Reduction Act

This rule does not contain information collection requirements which require approval by the OMB under 44 U.S.C. 3501 et seq. and 5 CFR Part 1320.

Environmental Consideration

According to 516 DM 6 Appendix 1(c)(7) "Actions where FWS has concurrence or coapproval with another bureau and the action is a categorical exclusion for that bureau" is considered a categorical exclusion for the Service. The Navy has that exclusion, therefore, there is no requirement to do an Environmental Assessment (EA) at this time. However, an EA will be done by the Navy prior to development of facilities on the Island.

Nancy A. Marx, Division of Refuges, Fish and Wildlife Service, Washington, DC, is primary author of this rulemaking.

List of Subjects in 50 CFR Part 36

Alaska, National Wildlife Refuge System, Public land—mineral resources, Public lands—rights-of-way, Recreation, Traffic regulations, Wildlife refuges.

PART 36—[AMENDED]

1. The authority citation for Part 36 continues to read as follows:

Authority: 16 U.S.C. 460k et seq., 668dd et seq., 742(a) et seq., and 3101 et seq.; 44 U.S.C. 3501 et seq.

2. Section 36.39 is amended by adding a new paragraph (b) as follows:

§ 36.39 Public use.

* * * * *

(b) Alaska Maritime National Wildlife Refuge.

(1) Amchitka Island—closed to all public access, occupancy and use, unless specifically authorized by a special use permit issued jointly by the Refuge Manager and the U.S. Navy (Commanding Officer, Fleet Surveillance Support Command, Chesapeake, Virginia).

* * * * *

Dated: November 4, 1986.

P. Daniel Smith,

Acting Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 86–25794 Filed 11–14–86; 8:45 am]

BILLING CODE 4310–55–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 371

[Docket No. 60616–6116]

Fraser River Sockeye and Pink Salmon Fisheries; Inseason Orders

AGENCY: National Marine Fisheries Service (NMFS), NOAA, Commerce.

ACTION: Notice of inseason orders.

SUMMARY: The Secretary of Commerce (Secretary) hereby publishes all the inseason orders which were issued during the 1986 sockeye salmon fisheries in United States waters within the Fraser River Panel Area. These orders, approved by the Fraser River Panel (Panel) of the Pacific Salmon Commission (Commission) and by the Secretary during the season, established fishing times and areas for U.S. treaty Indian and all-citizen fisheries during the period the Commission exercised jurisdiction over these fisheries.

Due to the frequency with which inseason orders are issued, publication of individual orders is impracticable. All the 1986 orders are therefore being published in this notice to avoid fragmentation.

EFFECTIVE DATES: Each of the following inseason orders of the Secretary was effective upon announcement on telephone hotlines as specified at 50 CFR 371.21(b)(1) (June 27, 1986, 51 FR 23425).

ADDRESS: Comments on these inseason orders may be sent to Rolland A. Schmitten, Director, Northwest Region, NMFS, 7600 Sand Point Way NE., BIN C15700, Seattle, WA 98115.

FOR FURTHER INFORMATION CONTACT: Rolland A. Schmitten, 206–526–6150; or Richard B. Thompson, 206–526–6144.

SUPPLEMENTARY INFORMATION: The Treaty between the Government of the United States of America and the Government of Canada Concerning Pacific Salmon (Treaty) was signed at Ottawa on January 28, 1985, and subsequently was given effect in the United States by the Pacific Salmon Treaty Act (Act) at 16 U.S.C. 3631–3644.

Under authority of the Act, an emergency interim rule was promulgated at 50 CFR Part 371 (51 FR 23420, June 27, 1986) to provide a framework for implementation of certain regulations of the Commission and inseason orders of the Commission's Panel for sockeye and pink salmon fisheries in U.S. waters within the Panel area. The emergency interim rule was effective June 22, 1986, when the Commission assumed control of these fisheries, and remains in effect until modified, superseded, or rescinded.

The emergency interim rule closed the U.S. portion of the Panel area specified in Annex II of the Treaty to sockeye and pink salmon fishing unless opened by Panel regulations or by inseason orders of the Secretary that give effect to Panel orders, if such orders are determined to be consistent with domestic legal obligations. The Secretary may issue orders during the fishing season specifying the fishing times and areas for the U.S. treaty Indian and all-citizen fisheries for sockeye and pink salmon. The Secretary acts through his Panel representative, the Northwest Regional Director of NMFS, who signifies, by his affirmative vote, the Secretary's approval and adoption of inseason Panel orders. Official notice of these inseason actions of the Secretary is provided by two telephone hotlines described at § 371.21(b)(1). Inseason

orders of the Secretary are also to be published in the **Federal Register** as soon as practicable after they are issued (§ 371.21(b)(4)). Due to the frequency with which inseason orders are issued, publication of individual orders is impracticable. All the 1986 orders are therefore being published in this notice to avoid fragmentation.

The following inseason orders were adopted by the Panel and issued for U.S. fisheries by the Secretary during the 1986 fishing season. The times listed are local times, and the areas designated are Puget Sound Management and Catch Reporting Areas as defined in the Washington State Administrative Code at Chapter 220-22 as of June 22, 1986.

Order No. 1986-1: Issued 12:15 p.m., July 22, 1986

Treaty Indian fishery: Areas 4B, 5, and 6C—Open until further notice to drift gill nets at 12:00 noon Friday, July 25. Areas 6, 7, and 7A—Remain closed to net fishing.

Order No. 1986-2: Issued 3:00 p.m., August 1, 1986

Treaty Indian fishery: Areas 4B, 5, and 6C—Remain open to drift gill net fishing. Areas 6, 7, and 7A—Open to net fishing 5:00 a.m. Tuesday, August 5 to 9:30 a.m. Wednesday, August 6.

All-citizen fishery: Areas 4B, 5, 6, 6C, 7, and 7A—Remain closed to commercial salmon fishing.

Order No. 1986-3: Issued 3:30 p.m., August 5, 1986

Treaty Indian fishery: Areas 6, 7, and 7A—Open to net fishing 9:30 a.m. Wednesday, August 6 to 9:30 a.m. Thursday August 7.

All-citizen fishery: Open to reef nets 6:00 a.m. to 9:00 p.m. Friday, August 8.

Order No. 1986-4: Issued 4:30 p.m., August 8, 1986

Treaty Indian fishery: Areas 4B, 5, and 6C—Remain open to drift gill nets. Areas 6, 7, and 7A—Open to net fishing 6:00 p.m. Sunday, August 10 to 9:30 p.m. Tuesday, August 12.

All-citizen fishery: Areas, 4B, 5, 6, 6C, 7, and 7A—Open to gill nets 7:00 p.m. Monday, August 11 to 9:30 a.m. Tuesday, August 12; open to purse seines 5:00 a.m. to 9:30 p.m. Tuesday, August 12.

Order No. 1986-5: Issued 4:00 p.m., August 11, 1986

Treaty Indian fishery: Areas 6, 7, and 7A—Extend opening for net fishing 9:30 p.m. Tuesday, August 12 to 9:30 p.m. Wednesday, August 13.

All-citizen fishery: Areas 4B, 5, 6, 6C, 7, and 7A—Open to reef nets 6:00 a.m. to 9:00 p.m. Tuesday, August 12; open to gill nets 7:00 p.m. Tuesday, August 12 to 9:30 a.m. Wednesday, August 13; open to purse seines 5:00 a.m. to 9:30 p.m. Wednesday, August 13.

Order No. 1986-6: Issued 2:55 p.m., August 15, 1986

Treaty Indian fishery: Areas 4B, 5, and 6C—Closed to drift gill nets 12:00 noon Monday, August 18 until 12:00 noon Tuesday, August 19; reopens to drift gill nets 12:00 noon Tuesday, August 19 until further notice. Areas 6, 7, and 7A—Open to net fishing 6:00 a.m. Sunday, August 17 to 9:30 a.m. Tuesday, August 19.

All-citizen fishery: Areas 4B, 5, 6, 6C, 7, and 7A—Open to reef nets 6:00 a.m. to 9:00 p.m. Saturday, August 16; open to purse seines 5:00 a.m. to 9:00 p.m. Sunday, August 17; open to gill nets 6:00 p.m. Sunday, August 17 to 9:00 a.m. Monday, August 18.

Order No. 1986-7: Issued 2:25 p.m., August 18, 1986

Treaty Indian fishery: Areas 6, 7, and 7A—Open to net fishing 9:30 a.m. Tuesday, August 19 to 9:30 a.m. Wednesday, August 20.

Order No. 1986-8: Issued 2:00 p.m., August 22, 1986

Treaty Indian fishery: Areas 4B, 5, and 6C—Remain open to drift gill nets. Areas 6, 7, and 7A—Open to net fishing 6:00 p.m. Sunday, August 24 to 9:30 p.m. Tuesday, August 26.

All-citizen fishery: Areas 4B, 5, 6, and 6C—Closed to net fishing. Areas 7 and 7A—Open to reef nets 6:00 a.m. to 9:00 p.m. Sunday, August 24; open to gill nets 6:00 p.m. Sunday, August 24 to 9:00 a.m. Monday, August 25; open to purse seines 5:00 a.m. to 9:00 p.m. Monday, August 25.

Order No. 1986-10: Issued 2:00 p.m., August 29, 1986

Treaty Indian fishery: Areas 4B, 5, and 6C—Closed to drift gill nets effective 12:00 noon Saturday, August 30. Areas 6, 7, and 7A—Closed to net fishing.

All-citizen fishery: Areas 4B, 5, 6, and 6C—Closed to net fishing. Areas 7 and 7A—Open to reef nets 6:00 a.m. to 9:00 p.m. Monday, September 1; open to purse seines 5:00 a.m. to 9:00 p.m. Tuesday, September 2; open to gill nets 6:00 p.m. Tuesday, September 2 to 9:00 a.m. Wednesday, September 3.

Closed to net fishing westerly of a straight line drawn from the low water range marker in Boundary Bay on the International Boundary through the east tip of Point Roberts in the State of Washington to the East Point Light on Saturna Island in the Province of British Columbia effective 12:01 a.m. Sunday, August 31.

Order No. 1986-12: Issued 11:15 a.m., September 12, 1986

Treaty Indian and all-citizen fisheries: Areas 4B, 5, 6, 6A, and 6C—Regulatory control relinquished effective 12:01 a.m. Sunday, September 14.

Order No. 1986-14: Issued 1:10 p.m., September 25, 1986

Area 7A—Regulatory control extended for those waters lying westerly of a straight line drawn from the low water range marker at Boundary Bay on the International Boundary through the east tip of Point Roberts to the East Point Light on Saturna Island.

Order No. 1986-15: Issued 12:40 p.m., September 27, 1986

Resume regulatory control of that portion of Area 7A lying north of a line from Birch Point to East Point on Saturna Island.

Treaty Indian and all-citizen fisheries: Area 7A northerly of a line from Birch Point to East Point on Saturna Island—Open to gill nets 7:00 p.m. Saturday, September 27 to 7:00 a.m. Sunday, September 28; open to purse seines 7:00 a.m. to 7:00 p.m. Sunday, September 28.

Order No. 1986-16: Issued 2:55 p.m., September 28, 1986

Treaty Indian and all-citizen fisheries: Area 7A northerly of a line from Birch Point to East Point on Saturna Island—Open to gill nets 7:00 p.m. Sunday, September 28 to 7:00 a.m. Monday, September 29 and 7:00 p.m. Monday, September 29 to 7:00 a.m. Tuesday, September 30; open to purse seines 7:00 a.m. to 7:00 p.m. Monday, September 29 and 7:00 a.m. to 7:00 p.m. Tuesday, September 30.

Order No. 1986–18: Issued 2:20 p.m., September 30, 1986

Area 7A northerly of a line from Birch Point to East Point on Saturna Island—Relinquish regulatory control effective 7:01 p.m. Tuesday, September 30.

Other Matters

This action is taken under authority of 50 CFR 371.21, and is in compliance with Executive Order 12291.

List of Subjects in 50 CFR Part 371

Fisheries, Fishing, Treaty Indians.

Authority: 16 U.S.C. 3636(b).

Dated: November 10, 1986.

James E. Douglas, Jr.,

Deputy Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 86–25824 Filed 11–14–86; 8:45 am]

BILLING CODE 3510–22–M

Notices

Federal Register
Vol. 51, No. 221
Monday, November 17, 1986

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

Programmatic Memorandum of Agreement Regarding the Treatment of World War II (1939–1946) Temporary Buildings

AGENCY: Advisory Council on Historic Preservation.

ACTION: Notice.

SUMMARY: The Advisory Council on Historic Preservation has executed a Programmatic Memorandum of Agreement pursuant to § 800.13 of the Council's regulations, "Protection of Historic Properties" (36 CFR Part 800), with the Department of Defense and the National Conference of State Historic Preservation Officers, providing for the identification, evaluation, and documentation of World War II temporary buildings. Execution of this Agreement satisfies DoD's responsibilities under section 106 of the National Historic Preservation Act (16 U.S.C. 470f) for activities involving the demolition of these buildings.

The Agreement stipulates that all World War II temporary buildings that are identified by organizations and individuals within 60 days of the publication of this notice will be considered by DoD in its selection of examples to be documented or treated in accordance with historic preservation plans. Organizations and individuals should contact the offices listed below to provide information to DoD for its identification of significant World War II temporary buildings.

For Army and Army National Guard Installations: Chief, Facility Engineering Division, U.S. Army Corps of Engineers, Attn: DAEN-ZCF, Washington, DC 20314–1000, (202) 272–0867.

For Navy Installations: Commander, Naval Facilities Engineering Command, Code 20Y, 200 Stovall Street, Alexandria, VA 22332–2300, (202) 325–7353.

For Marine Corps Installations: Land Resources Management and Environmental Branch, HQ, Marine Corps, LFL, Washington, DC 20380, (202) 697–1890.

For Air Force Installations: Chief, Environmental Division, HQ, United States Air Force, Bolling AFB, Washington, DC 20332–5000, (202) 767–3639.

Single copies of the Programmatic Memorandum of Agreement can be obtained by writing to the Executive Director, Advisory Council on Historic Preservation, 1100 Pennsylvania Avenue, NW., Suite 803, Washington, DC 20004.

Dated: November 10, 1986.

John M. Fowler,

Acting Executive Director.

[FR Doc. 86–25897 Filed 11–14–86; 8:45 am]

BILLING CODE 4310-10-M

DEPARTMENT OF AGRICULTURE

Office of the Secretary

National Advisory Council on Rural Development; Intent To Re-establish

Pursuant to the Federal Advisory Committee Act (Pub. L. 92–463), notice is hereby given that the Secretary of Agriculture proposes to re-establish the National Advisory Council on Rural Development. The purpose of the Council is to provide advice to the Secretary on the rural development needs, goals, objectives, plans, and recommendations of multi-state, State, substate, and local organizations and jurisdictions. The Council will provide the Secretary with assistance in identifying rural problems and supporting efforts and initiatives in rural development.

The Secretary has determined that the work of the Council is in the public interest and is in connection with the duties of the Department of Agriculture. No other advisory committee or agency of the department is performing the tasks assigned to the National Advisory Council on Rural Development.

Views and comments of interested persons may be submitted to the Under Secretary for Small Community and Rural Development, U.S. Department of Agriculture, Room 219–A, Washington, DC 20250, until 15 days after publication in the **Federal Register**. Such comments will be available for public inspection during regular business hours (7 CFR 1.27(b)).

Done at Washington, DC, this 12th day of November 1986.

John J. Franke, Jr.,

Assistant Secretary for Administration.

[FR Doc. 86–25912 Filed 11–14–86; 8:45 am]

BILLING CODE 3410-01-M

Food Safety and Inspection Service

[Docket No. 86–040N]

SLD Policy Memoranda; Semi-Annual Listing

AGENCY: Food Safety and Inspection Service, USDA.

ACTION: Notice.

SUMMARY: This document lists and makes available to the public memoranda issued by the Standards and Labeling Division (SLD), Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service (FSIS), which contain significant new applications or interpretations of the Federal Meat Inspection Act, the Poultry Products Inspection Act, the regulations promulgated thereunder, or departmental policy concerning labeling.

FOR FURTHER INFORMATION CONTACT: Margaret O'K. Glavin, Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250, (202) 447–6042.

SUPPLEMENTARY INFORMATION: FSIS conducts a prior approval program for labels or other labeling (specified in 9 CFR 317.4, 317.5, 381.132, and 381.134) to be used on federally inspected meat and poultry products. Pursuant to the Federal Meat Inspection Act (21 U.S.C. 601 *et seq.*) and the Poultry Products Inspection Act (21 U.S.C. 451 *et seq.*), and the regulations promulgated thereunder, meat and poultry products which do not bear approved labels may not be distributed in commerce.

FSIS' prior label approval program is conducted by label review experts within SLD. A variety of factors, such as continuing technological innovations in food processing and expanded public concern regarding the presence of various substances in foods, has generated a series of increasingly

complex issues which SLD must resolve as part of the prior label approval process. In interpreting the Acts or regulations to resolve these issues, SLD may modify its policies on labeling or develop new ones.

Significant or novel interpretations or determinations made by SLD are issued in writing in memorandum form. This document lists those SLD policy memoranda issued from April 1, 1986, through September 30, 1986.

Persons interested in obtaining copies of any of the following SLD policy memoranda, or in being included on a list for automatic distribution of future SLD policy memoranda, may write to: Printing and Distribution Section, Paperwork Management Branch, Administrative Services Division, Food Safety and Inspection Service, U.S. Department of Agriculture, Washington, DC 20250.

Memo No.	Title and date	Issue	Reference
096	Approval of Labels for Experimental/Sample Products, May 7, 1986.	Are there conditions under which an Inspector-in-Charge (IIC) of an official establishment may approve labels for experimental/sample (E/S) products?.	N/A
097	Label Approval Guidelines for Wild Boar Products, June 4, 1986.	What are the criteria and requirements for product labels bearing the term "Wild Boar"?.	9 CFR 317.2(d)(1), (2), and (3)
098	Labeling and Use of Beef Cheek Meat and Beef Head Meat, June 10, 1986.	What guidelines should be followed for the labeling and use of beef cheek meat and/or beef head meat?.	(Replaces Policy Memo 064); 9 CFR 319.15, 319.81, 319.100, 319.300, 319.301, 319.303
031A	Salami Labeling, July 23, 1986	What is the appropriate labeling for the product "Salami"?	Policy Memo 031.
066B	Red Meat Products Containing Added Solutions, August 8, 1986.	The labeling of red meat products containing added solutions	(Replaces Policy Memo 066A); 9 CFR 319.101 and 102; Policy Memo 084; 9 CFR 318.7(c)(4); Policy Memo 081A Policy Memo 007.
044A	Raw Boneless Poultry Containing Solutions, September 2, 1986.	Labeling of raw boneless poultry and poultry parts to which solutions are added.	(Replaces Policy Memo 044.); 9 CFR 381.169 Policy Memo 007.
099	Labeling of Products Which Include Packets of Other Components, September 2, 1986.	What sort of product name and net weight declaration is required when meat and/or poultry products are packed with small packets of gravy, sauces, seasoning mixtures or the like?.	Policy Memo 087A.
100	Poultry Tenders and Poultry Tenderloins, September 3, 1986.	When "(Kind) Tenders" or "(Kind) Tenderloins" are used as a product name, what products are being described?.	N/A.

The SLD policies specified in these memoranda will be uniformly applied to all relevant labeling applications unless modified by future memoranda or more formal Agency action. Applicants retain all rights of appeal regarding decisions based upon these memoranda.

Done at Washington, DC, on November 12, 1986.

Margaret O'K. Glavin,

Director, Standards and Labeling Division, Meat and Poultry Inspection Technical Services, Food Safety and Inspection Service.

[FR Doc. 86-25832 Filed 11-14-86; 8:45 am]

BILLING CODE 3410-DM-M

ARCTIC RESEARCH COMMISSION

Meetings

Notice is hereby given that the Arctic Research Commission will meet in Anchorage, Alaska on 4-5 December 1986. On 4 December (Thursday) and half day on December 5 (Friday) the Commission will be meeting at the Arctic Research Commission Offices, 707 A Street, Anchorage, Alaska. Agenda items on 4 December will include: (1) Opening Remarks by Chairman (2) Approval of Report of Meeting, 23 July 1986 (3) Comments from Interagency Arctic Research Policy Committee (4) 5-Year Arctic Research Plan—Outcome of Consultative Workshop (5) Activities of Federal/State Task Forces (6) Logistic Requirements to Support Arctic Research—Outcome of Workshop (7) Mechanisms for International Cooperation in Arctic Research (8) Future Activities of Commission (9) Commission Annual Report (10) Other Business.

The Commission will meet in Executive Session to discuss budgetary matters on 5 December.

Contact Person for More Information: W. Timothy Hushen, Executive Director, Arctic Research Commission (213) 743-0970.

W. Timothy Hushen,

Executive Director, Arctic Research Commission.

[FR Doc. 86-25887 Filed 11-14-86; 8:45 am]

BILLING CODE 7555-01-M

DEPARTMENT OF COMMERCE

International Trade Administration

Cornell University Medical College; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86-242. Applicant: Cornell University Medical College, New York, NY 10021. Instrument: Mass Spectrometer, Model SIRA 12. Manufacturer: VG Isogas Ltd., United Kingdom. Intended use: See notice at 51 FR 25924.

Comments: None received.

Decision: Approved. No domestic manufacturer was both "able and willing" to manufacture an instrument or apparatus of equivalent scientific value to the foreign instrument for such purposes as the instrument was intended to be used, and have it available to the applicant without unreasonable delay in accordance with § 301.5(d)(2) of the regulations, at the time the foreign instrument was ordered (February 13, 1986).

Reasons: The foreign instrument provides an internal precision of 0.92‰ for 20 microliter samples of CO_2 an automated 20 sample port heatable manifold. The capabilities are necessary for the intended purposes. We know of no domestic manufacturer both able and willing to provide an instrument with the required features at the time the foreign instrument was ordered.

As to the domestic availability of instruments, § 301.5(d)(2) of the regulations provides that, in determining whether a U.S. manufacturer is able and willing to produce an instrument, and have it available without unreasonable delay, "the normal commercial practices applicable to the production and delivery of instruments of the same general category shall be taken into account, as well as other factors which in the Director's judgment are reasonable to take into account under the circumstances of a particular case." This subsection also provides that, if "a

domestic manufacturer was formally requested to bid an instrument, without reference to cost limitations and within a leadtime considered reasonable for the category of instrument involved, and the domestic manufacturer failed formally to respond to the request, for the purposes of this section the domestic manufacturer would not be considered willing to have supplied the instrument."

The regulations require that domestic manufacturers be both "able and willing" to produce an instrument for the purposes of comparison with the foreign instrument. Where an applicant, as in this case, received no response to a formal request for quotation sent to the only known domestic manufacturer of isotope ratio mass spectrometers it is apparent that the domestic manufacturer was either not able or not willing to produce an instrument of equivalent scientific value to the foreign instrument for such purposes as the foreign instrument was intended to be used at the time the foreign instrument was ordered.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc. 86-25885 Filed 11-14-86; 8:45 am]

BILLING CODE 3510-DS-M

The Johns Hopkins University; Decision on Application for Duty-Free Entry of Scientific Instrument

This decision is made pursuant to section 6(c) of the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Pub. L. 89-651, 80 Stat. 897; 15 CFR Part 301). Related records can be viewed between 8:30 AM and 5:00 PM in Room 1523, U.S. Department of Commerce, 14th and Constitution Avenue, NW., Washington, DC.

Docket Number: 86-237. Applicant: The Johns Hopkins University, Baltimore, MD 21218. Instrument: Reflex Light Microscope with Accessories. Manufacturer: Reflex Measurement Ltd., United Kingdom. Intended use: See notice at 51 FR 25083.

Comments: None received.

Decision: Approved. No instrument of equivalent scientific value to the foreign instrument, for such purposes as it is intended to be used, is being manufactured in the United States.

Reasons: The foreign instrument provides three-dimensional measurements of very small objects with a horizontal repeatability of pointing to a well-defined point of 0.002 millimeters and 0.015 in the vertical. The National Institutes of Health advises in its memorandum dated July 29, 1986 that (1) this capability is pertinent to the applicant's intended purpose and (2) it knows of no domestic instrument or apparatus of equivalent scientific value to the foreign instrument for the applicant's intended use.

We know of no other instrument or apparatus of equivalent scientific value to the foreign instrument which is being manufactured in the United States.

Frank W. Creel,

Director, Statutory Import Programs Staff.

[FR Doc 86-25886 Filed 11-14-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-401-603]

Initiation of Antidumping Duty Investigations; Certain Stainless Steel Hollow Products From Sweden

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: On the basis of a petition filed in proper form with the U.S. Department of Commerce, we are initiating antidumping duty investigations to determine whether imports of certain stainless steel hollow products from Sweden are being, or are likely to be sold in the United States at less than fair value. We are notifying the U.S. International Trade Commission (ITC) of these actions so that it may determine whether imports of these products materially injure, or threaten material injury to, a U.S. industry. If these investigations proceed normally, the ITC will make its preliminary determinations on or before December 4, 1986, and we will make ours on or before March 30, 1987.

EFFECTIVE DATE: November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Mary Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone (202) 377-1769.

SUPPLEMENTARY INFORMATION:

The Petition

On October 20, 1986, we received a petition filed in proper form by the Specialty Tubing Group, and by each of the member companies who produces certain stainless steel hollow products. In compliance with the filing requirements of § 353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of certain stainless steel hollow products from Sweden are being, or are likely to be sold in the United States at less than fair value within the meaning of section 731 of the Tariff Act of 1930, as amended (the Act), and that these imports materially injure, or threaten material injury to, a U.S. industry.

Initiation of Investigations

Under section 732(c) of the Act, we must determine, within 20 days after a petition is filed, whether it sets forth the allegations necessary for the initiation of an antidumping duty investigation, and whether it contains information reasonably available to the petitioners supporting the allegations.

We examined the petition on certain stainless steel hollow products from Sweden and found that it meets the requirements of section 732(b) of the Act. Therefore, in accordance with section 732 of the Act, we are initiating antidumping duty investigations to determine whether certain stainless steel hollow products from Sweden are being, or are likely to be, sold in the United States at less than fair value. If our investigations proceed normally, we will make our preliminary determinations by March 30, 1987.

Scope of Investigations

The products covered by these investigations are certain stainless steel hollow products including pipes, tubes, hollow bars and blanks therefor, of circular cross-section, containing over 11.5 percent chromium by weight, as provided for in items 610.3701, 610.3727, 610.3731, 610.3741, 610.3742, 610.5130, 610.5202, 610.5229, 610.5230, and 610.5231 of the *Tariff Schedules of the United States Annotated (TSUSA).*

United States Price and Foreign Market Value

Petitioners based United States price on Swedish producers' price quotes in the United States on a C.I.F. basis.

Petitioners based foreign market value for welded tubes on an estimated 40 percent discount off list price. For seamless hollow bars and seamless pipe, home market prices were based on actual selling prices. Based on a comparison of United States prices and foreign market values, petitioners allege dumping margins of 32.6 to 101.2 percent for A-312 welded stainless steel pipe, 5.1 to 72.2 percent for A-269 welded tube, 19.0 to 20.3 percent for A-511 hollow bars, and 51.1 to 64.1 percent for A-312 seamless pipe.

Notification of ITC

Section 732(d) of the Act requires us to notify the ITC of these actions and to provide it with the information we used to arrive at these determinations. We will notify the ITC and make available

to it all nonprivileged and nonproprietary information. We will also allow the ITC access to all privileged and business proprietary information in our files, provided it confirms in writing that it will not disclose such information either publicly or under an administrative protective order without the written consent of the Deputy Assistant Secretary for Import Administration.

Preliminary Determinations by ITC

The ITC will determine by December 4, 1986, whether there is a reasonable indication that imports of certain stainless steel hollow products from Sweden materially injure, or threaten material injury to, a U.S. industry. If its determinations are negative the investigations will terminate; otherwise they will proceed according to the statutory and regulatory procedures.

November 10, 1986.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary, for Import Administration.

[FR Doc. 86-25881 Filed 11-14-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-588-041]

Synthetic Methionine From Japan; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administration/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to requests by two respondents, the Department of Commerce has conducted an administrative review of the antidumping finding on synthetic methionine from Japan. The review covers one manufacturer and one exporter of this merchandise to the United States and the period July 1, 1982 through June 30, 1983. The review indicates no dumping margins for these firms during the period.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Dennis U. Askey or John R. Kugelman, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-2923/3601.

SUPPLEMENTARY INFORMATION:

Background

On December 9, 1983, the Department of Commerce ("the Department") published in the **Federal Register** (48 FR 55153) the final results of its last administrative review of the antidumping finding on synthetic methionine from Japan (38 FR 18392, July 10, 1973). We began the current review of the finding under our old regulations. After the promulgation of our new regulations, a manufacturer and an exporter requested in accordance with § 353.53a(a) of the Commerce regulations that we complete the administrative review. We published a notice of initiation of the antidumping duty administrative review on January 21, 1986 (51 FR 2748).

Scope of the Review

Imports covered by the review are shipments of synthetic methionine other than synthetic L methionine. Synthetic methionine is an amino acid produced in two grades, DL methionine national formula grade (used for research and pharmaceutical purposes) and DL methionine feed grade (used as a feed additive). Both grades of synthetic methionine are currently classifiable under item 425.0430 of the Tariff Schedules of the United States Annotated.

The review covers one manufactuer and one exporter of Japanese synthetic methionine to the United States, Nippon Soda Co., Ltd. and Mitsui & Co., Ltd., and the period July 1, 1982 through June 30, 1983.

United States Price

In calculating United States price the Department used exporter's sales price, as defined in section 772 of the Tariff Act of 1930 ("the Tariff Act"). Exporter's sales price was based on the packed delivered price to the first unrelated purchaser in the United States. We made adjustments for commissions to unrelated parties, Customs duties, ocean freight, marine insurance, U.S. inland freight, food and drug inspection fees, brokerage fees, destination charges, warehouse expenses, early payment discounts, credit expenses, and the U.S. subsidiary's selling expenses. No other adjustments were claimed or allowed.

Foreign Market Value

In calculating foreign market value the Department used home market price, as defined in section 773 of the Tariff Act, since sufficient quantities of such or similar merchandise were sold in the home market to provide a basis for comparison. Home market price was based on the packed delivered price to an unrelated purchaser in the home market. We made adjustments, where applicable, for inland freight, discounts, commissions to unrelated parties, credit expenses, and differences in packing costs. No other adjustments were claimed or allowed.

Preliminary Results of the Review

As a result of our comparison of United States price to foreign market value, we preliminarily determine that no margin exists for Nippon Soda/Mitsui for the period July 1, 1982 through June 30, 1983.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

Further, as provided for by § 353.48(b) of the Commerce Regulations, since there was no margin the Department shall not require a cash deposit of estimated antidumping duties for Nippon Soda/Mitsui.

For any shipments from the 29 remaining known firms not covered in this review, the cash deposit will continue to be at the rates published in the final results of the last administrative review for each of those firms (48 FR 55153, December 9, 1983).

For any future shipments from a new exporter not covered in this or prior administrative reviews, whose first shipments occurred after June 30, 1983 and who is unrelated to any reviewed firm or any other previously reviewed firm, no cash deposit shall be required. These deposit requirements are effective for all shipments of Japanese synthetic DL methionine entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this administrative review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act (19 U.S.C. 1675 (a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a).

Dated: November 10, 1986.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-25882 Filed 11-14-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-461-008]

Titanium Sponge From the USSR; Preliminary Results of Antidumping Duty Administrative Review

AGENCY: International Trade Administrative/Import Administration Department of Commerce.

ACTION: Notice of preliminary results of antidumping duty administrative review.

SUMMARY: In response to a request by an importer, the Department of Commerce has conducted an administrative review of the antidumping finding on titanium sponge from the USSR. The review covers Techsnabexport, an exporter of this merchandise to the United States, and the period August 1, 1983 through July 31, 1985. The review indicates the existence of dumping margins during the period.

As a result of the review, the Department has preliminarily determined to assess antidumping duties equal to the calculated differences between United States price and foreign market value. Techsnabexport failed to respond to our questionnaire. As a result, we used the best information available for assessment and estimated antidumping duty cash deposit purposes.

Interested parties are invited to comment on these preliminary results.

EFFECTIVE DATE: November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Anne D'Alauro or Maureen Flannery, Office of Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-1130/3601.

SUPPLEMENTARY INFORMATION:

Background

On April 25, 1985, the Department of Commerce ("the Department") published in the **Federal Register** (50 FR 16330) the final results of its last administrative review of the antidumping finding on titanium sponge from the USSR (33 FR 12138, August 28, 1968). We began the current review of the finding under our old regulations. After the promulgation of our new regulations, an importer, ICD Group, Inc., requested that we complete the administrative review in according with § 353.53a(a) of the Commerce Regulations. We published the initiation of the administrative review on May 30, 1986 (51 FR 19580). As required by section 751 of the Tariff Act of 1930 ("the Tariff Act"), the Department has now conducted that administrative review.

Scope of the Review

Imports covered by the review are shipments of titanium sponge from the USSR. Titanium sponge is currently classifiable under item 629.1420 of the Tariff Schedules of the United States Annotated. The review covers Techsnabexport, an exporter of this merchandise to the United States, and the period August 1, 1983 through July 31, 1985.

Techsnabexport failed to respond to the Department's antidumping questionnaire. The Department consequently used the best information available for assessment and estimated antidumping duties cash deposit purposes. The best information available was the rate from the last review.

Preliminary Results of the Review

As a result of our review, we preliminarily determine that for the period August 1, 1983 through July 31, 1985, a margin of 83.96 percent exists.

Interested parties may submit written comments on these preliminary results within 30 days of the date of publication of this notice and may request disclosure and/or a hearing within 10 days of the date of publication. Any hearing, if requested, will be held 30 days after the date of publication or the first workday thereafter. Any request for an administrative protective order must be made no later than 5 days after the date of publication. The Department will publish the final results of the administrative review including the results of its analysis of any such comments or hearing.

The Department shall determine, and the Customs Service shall assess, antidumping duties on all appropriate entries. The Department will issue appraisement instructions directly to the Customs Service.

Further, as provided for by § 353.48(b) of the Commerce Regulations, a cash deposit of estimated antidumping duties of 83.96 percent shall be required.

This deposit requirement is effective for all shipments of titanium sponge manufactured by Techsnabexport entered, or withdrawn from warehouse, for consumption on or after the date of publication of the final results of this review.

This administrative review and notice are in accordance with section 751(a)(1) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(1)) and § 353.53a of the Commerce Regulations (19 CFR 353.53a; 50 FR 32556, August 13, 1985).

Dated: November 11, 1986.

Joseph A. Spetrini,

Acting Deputy Assistant Secretary, Import Administration.

[FR Doc. 86-25883 Filed 11-14-86; 8:45 am]

BILLING CODE 3510-05-M

[C-211-602]

Final Affirmative Countervailing Duty Determination; Operators for Jalousie and Awning Windows From El Salvador

AGENCY: Import Administration, International Trade Administration, Commerce.

ACTION: Notice.

SUMMARY: We determine that certain benefits which constitute subsidies are being provided to manufacturers, producers, or exporters in El Salvador of operators for jalousie and awning windows. The estimated net subsidy is 4.76 percent *ad valorem*. Industrias Metalicas, S.A. (IMSA), one of the respondents under investigation, did not apply for and did not receive any benefits under the program determined to be countervailable. We are, therefore, not including IMSA from our final determination. We also determine that critical circumstances do not exist with respect to the merchandise under investigation within the meaning of section 705(a)(2) of the Tariff Act of 1930 (the Act), as amended.

We have notified the United States International Trade Commission (ITC) of our determination. If the ITC's final injury determination is affirmative, we will direct the United States Customs Service to suspend liquidation of all entries of operators for jalousie and awning windows from El Salvador, except for those operators exported by IMSA, that are entered, or withdrawn from warehouse, for consumption on or after the date of publication of the countervailing duty order.

EFFECTIVE DATE: November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Steven Morrison or Barbara Tillman, Office of Investigations, Import Administration, International Trade Administration, United States Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1248 or 377-2438.

SUPPLEMENTARY INFORMATION:

Final Determination

Based upon our investigation, we determine that certain benefits which constitute subsidies within the meaning

of section 701 of the Act, are being provided to manufacturers, producers, or exporters in El Salvador of operators for jalousie and awning windows. For purposes of this investigation, the "Income Tax Exemption for Export Earnings" is the only program that conferred a countervailable subsidy. We determine the estimated net subsidy to be 4.76 percent *ad valorem*.

Case History

On March 19, 1986, we received a petition in proper form from the Anderson Corporation and the Caribbean Die Casting Corporation, manufacturers of operators for jalousie and awning windows located in Puerto Rico. In compliance with the filing requirements of § 355.26 of the Commerce Regulations (19 CFR 355.26), the petition alleged that manufacturers, producers, or exporters in El Salvador of operators for jalousie and awning windows receive, directly or indirectly, benefits which constitute subsidies within the meaning of section 701 of the Act, and that these imports materially injure, or threaten material injury to, a United States industry. In addition, the petition alleged that "critical circumstances" exist within the meaning of section 703(e)(1) of the Act.

We found that the petition contained sufficient grounds upon which to initiate a countervailing duty investigation, and on April 8, 1986, we initiated an investigation (51 FR 12633). We stated that we expected to issue a preliminary determination on or before June 12, 1986.

Since El Salvador is a "country under the Agreement" within the meaning of section 701(b) of the Act, the ITC is required to determine whether imports of the subject merchandise from El Salvador materially injure, or threaten material injury to a United States industry. Therefore, we notified the ITC of our initiation. On May 5, 1986, the ITC determined that there is a reasonable indication that imports from El Salvador of operators for jalousie and awning windows threaten material injury to a United States industry (51 FR 17683).

We presented questionnaires concerning the petitioners' allegations to the Government of El Salvador in Washington, DC on April 18, 1986. We received responses to the questionnaires on May 20, 1986, and amendments to the responses on May 21, 22, 27, 29, June 2 and 3. The responses stated, and we verified, that IMSA is the only manufacturer of operators for jalousie and awning windows. Both IMSA and Die Casting Products, S.A. de C.V. (DIE CAST), which are owned by a common holding company, sold the subject merchandise to the United States during the review period (calendar year 1985). On June 12, 1986, we issued a preliminary affirmative determination in the countervailing duty investigation on operators for jalousie and awning windows from El Salvador (51 FR 22099). Our notice of preliminary determination gave interested parties an opportunity to submit oral and written views. A public hearing was not held because no interested party requested one in this investigation.

On June 24, 1986, petitioners filed a request for extension of the deadline date for the final determination in the countervailing duty investigation to correspond with the date of the final determination in the antidumping investigation on the same products from El Salvador. In accordance with section 705(a)(1) of the Tariff Act of 1930, as amended by section 606 of the Trade and Tariff Act of 1984, we granted an extension for the final determination to November 10, 1986, to coincide with the deadline for the final determination in the antidumping duty investigation of the same product (51 FR 27232, July 30, 1986).

Verification was conducted in El Salvador from July 8 through July 16, 1986. The company respondents amended their response concerning sales volume and value on July 21, 1986 to reconcile minor differences found on verification.

Scope of Investigation

The products covered by this investigation are operators for jalousie and awning windows as provided for in item number 647.0365 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Analysis of Programs

Throughout this notice, we refer to certain general principles applied to the facts of the current investigation. These principles are described in the "Subsidies Appendix" attached to the notice of "Cold-Rolled Carbon Steel Flat-Rolled Products from Argentina: Final Affirmative Countervailing Duty Determination and Countervailing Duty Order," which was published in the April 26, 1986 issue of the Federal Register (49 FR 18006).

For purposes of this final determination, the period for which we are measuring subsidies ("the review period") is calendar year 1985, which corresponds to respondents' fiscal year. Based upon our analysis of the petition, the responses to our questionnaire, the verification, and comments filed by both petitioners and respondents, we determine the following:

I. Program Determined To Confer a Subsidy

We determine that a subsidy is being provided to manufacturers, producers, or exporters in El Salvador of operators for jalousie and awning windows under the following program:

Income Tax Exemption for Export Earnings

Under Chapters 2, 3, and 4 of the Export Promotion Law of 1974, approved exporting companies do not pay income tax on income earned from exports to destinations outside the Central American Common Market. DIE CAST is the only company involved in the export of operators for jalousie and awning windows which was eligible for and which claimed this tax exemption during and after the review period. IMSA did not apply for an income tax exemption for export earning benefits under the 1974 Export Promotion Law. Therefore, it was not eligible to receive and did not receive income tax benefits on its exports.

Because this income tax exemption is limited to income derived from exports, we determine that it confers an export subsidy. Accordingly, we calculated the benefit by dividing the amount of the income tax benefit received by DIE CAST, based on the income tax return filed during the review period, by the value of DIE CAST's exports of operators for jalousie and awning windows for 1985 that were exported to destination outside the Central American Common Market.

The estimated net subsidy is 4.76 percent *ad valorem*.

II. Program Determined Not To Confer A Subsidy

We determine that the following program does not confer a subsidy on manufacturers, producers or exporters in El Salvador of operators for jalousie and awning windows:

A. Exemptions to Exporters for Fiscal Stamp Tax

In El Salvador, a five percent stamp tax is levied on the value of sales and other commecial and legal activities. Export sales are specifically exempt from the stamp tax.

Under section 771(5)(A) of the Act, the non-excessive remission or exemption of indirect taxes levied at the final stage of production is not considered a subsidy. See Annex to the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the General Agreement on Tariffs and Trade (Annex to the Subsidies Code), Note to Article XVI. Since the amount of

the stamp tax is not greater than the amount of stamp tax otherwise due, we determine that this program does not confer a subsidy on exports of operators for jalousie and awning windows.

III. Programs Determined Not To Be Used

We determine that manufacturers, producers, or exporters in El Salvador of operators for jalousie and awning windows do not use the following programs:

A. Exemptions from Taxes on Imported Capital Equipment Used for Export Production

Under Chapters 2, 3, and 4 of the 1974 Export Promotion Law, approved exporters are entitled to import duty exemptions for imported capital equipment, including machinery, equipment, spare parts and accessories. We verified that the companies did not import capital equipment during the review period and, consequently, received no tax advantage from the program.

B. Duty Exemption on Imported Inputs Not Physically Incorporated into Exported Products

Under Chapters 2, 3, and 4 of the 1974 Export Promotion Law, materials used by approved exporters in the production of goods for export including raw materials, intermediate and semi-finished products, containers, packaging, samples, and patterns, are exempt from import duty. We did not initiate an investigation on duty exemptions for items, such as raw materials, which are physically incorporated into exported products. Duty exemptions on physically incorported imported inputs are not countervailable under the Annex to the Subsidies Code and Annex I of the Commerce Regulations (19 CFR Part 355, Annex I). We did initiate an investigation on such items as imported samples, patterns and lubricants not physically incorporated into exported products. We verified that the companies did not import any items which are not physically incorporated into the finished operators for jalousie and awning windows.

C. Operation in a Bonded Area

Under Chapters 2, 3, and 4 of the 1974 Export Promotion Law, exporting companies located in bonded areas are entitled to special duty-free privileges. We verified that no manufacturers, producers or exporters of operators for jalousie or awning windows are operating in bonded areas.

D. Central American Convention for Fiscal Incentives (Convenio Centro Americano de Incentives fiscales al Desarrollo Industrial)

After we initiated our investigation and presented our questionnaire, petitioners alleged that subsidies may be provided to manufacturers, producers, or exporters of the subject merchandise under this treaty. On April 30, we requested that the Government of El Salvador address the benefits of this treaty in its responses. In its response, the Government of El Salvador stated that, of the companies subject to the investigation, only IMSA was eligible for benefits during the review period under this treaty. We verified that under the convention, IMSA obtained only import duty exemptions for parts and materials physically incorporated into window operators. As stated previously, the exemption of import duties on items physically incorporated into the exported product is not considered a subsidy within the meaning of the countervailing duty law. We also verified that IMSA did not use any other provisions of this treaty. The duty exemption terminated on January 1, 1986 with the implementation of a new Central American tariff schedule (NAUCA II).

IV. Programs Determined Not To Exist

A. Pre-Export and Export Loans

Petitioners allege that pre-export loans were provided under Chapter 13 of the 1974 Export Promotion Law. In its response to our questionnaire the Government of El Salvador stated that no pre-export or export loans were extended because there were never any implementing regulations for Chapter 13.

B. Tax Credit Certificate (Del Certificado de Descuento Tributario)

Chapter 14 of the 1974 Export Promotion Law and Chapter 9 of the recently enacted 1986 Export Promotion Law, authorize qualified exporters to receive tax credit certificates, calculated as a percentage of the value of exports which can be used to pay taxes owed. We verified that implementing regulations were not put into effect under the old law, and have not, thus far, been enacted under the new law. Therefore, we determine that no program currently exists under which tax certificates are or were issued.

C. Pre-Export and Export Credit Guarantees

Chapter 13 of the 1974 Export Promotion Law authorizes the provision for pre-export and export guarantees. The Government of El Salvador stated, and we verified, that no such benefits have been conferred because this part of the law was never implemented through applicable regulations.

D. Export Credit Insurance

Chapter 15 of the 1974 Export Promotion Law authorizes the provision of export credit insurance for commercial and political risks. The Government of El Salvador stated and we verified, that an export credit insurance program has not been established and that this provision of the law had not been implemented.

E. Asset Tax Exemption under the 1974 Export Promotion Law

Petitioners allege that under Chapters 2 and 3 of the 1974 Export Promotion Law, certain persons and companies who qualify because of export activities, are not required to pay taxes on their assets and net capital worth. We verified that IMSA and DIE CAST did not take advantage of this provision as authorized under the Export Promotion Law during the review period. However, neither company paid asset taxes because all companies owned by Salvadorans and domiciled in El Salvador are not required to pay this tax, regardless of whether they exported. Since all domestically owned and operated companies are exempt from this asset tax, this exemption is not countervailable.

We also verified that the asset tax exemption authorized under the Export Promotion Law was not passed through to the individual owners of DIE CAST, the only investigated company that qualified for asset tax exemption under the Export Promotion Law during the review period. We verified that individual stockholders of DIE CAST paid their proportionate share of taxes on DIE CAST's assets on their personal tax returns. Accordingly, we determine that this program was not used by the only eligible company and that benefits from it were not passed through to its stockholders.

F. Exemption of Exporters from the Municipal Tax on Assets

Municipalities charge a monthly tax on the value of total real and personal property. There are no provisions under which exporting companies are exempted. Furthermore, we verified that the subject companies paid this tax.

VI. Program Determined To Be Terminated

Preferential Exchange Rate Treatment for Exporters

Petitioners allege that under El Salvador's two-tier exchange rate system, exporters purchase imports with dollars obtained at the official exchange rate, which is lower than the parallel market rate, while the returns from their exports are converted at the parallel exchange rate. A two-tier exchange rate system was in effect in El Salvador during the review period. Imports of materials and parts were purchased at a blend of dollars partly purchased at the official exchange rate and partly purchased at the higher parallel rate. Export earnings were also exchanged at a blended rate except that the percentage returned at the parallel rate was higher than that applicable to import purchases. The percentage of dollars that had to be returned at the official rate varied depending on the industry which manufactured the exported product.

As of June 17, 1985, the single exchange rate applicable to all purchases of imported materials and all export earnings was the parallel rate. Of the companies subject to this investigation, only IMSA purchased imports and made exports under the two-tier system. However, as of June 17, 1985, the only exchange rate applicable to all of IMSA's import and export transactions was the parallel rate.

Although IMSA utilized this two-tier exchange rate system during the first half of 1985, we verified that this program ceased to apply to the subject merchandise on June 17, 1985. In accordance with our policy regarding program-wide changes occurring prior to initiation of an investigation, we have determined that this program was terminated prior to initiation, and that IMSA could no longer receive or accrue any benefits under it. Therefore, it is unnecessary for us to determine whether it is countervailable.

Petitioners' Comments

Comment 1: Petitioners argue that the Department's attribution of DIE CAST's benefits to IMSA in the preliminary determination was correct insofar as both companies were commonly owned and the owners could easily shift exports from one company to the other. They further argue that a countervailing duty applied against both companies is the only meaningful penalty that can affect the economic interests of the individuals who own the assets of both companies.

DOC Position: We disagree. In our preliminary determination, we expressed concern that DIE CAST could, under the provisions of Article 81 of the 1974 Export Promotion Law, transfer its benefits to IMSA. The common ownership of the two companies made it even more likely that such a transfer of benefits might occur.

At verification, we learned that a transfer of benefits under Article 81 of the law was not possible between these two companies because IMSA, a domestic seller as well as an exporter, did not occupy the same status under the Export Promotion Law as that occupied by DIE CAST, which only exported the subject merchandise. We verified that IMSA had never qualified under the 1974 Export Promotion Law through transfer or original application. Furthermore, since DIE CAST's benefits were revoked by the Government of El Salvador subsequent to our preliminary determination, there was no possibility of any future transfer of benefits to IMSA.

With regard to petitioners' contention that a countervailing duty applied to both companies is the only meaningful penalty that can affect the economic interests of the individuals who own the assets of both companies, it is not the purpose of the law for us to determine the effects that the imposition of countervailing duties will have on the owners of these two companies. Our primary concerns in a related party situation are, whether the companies, in fact, operate as distinct entities, and whether any benefits are being passed through from one company to another. In this case, IMSA did not benefit from DIE CAST's subsidy.

Respondents' Comments

Comment 1: Respondents argue that since the Government of El Salvador revoked the eligibility of DIE CAST to receive benefits under the Export Promotion Law of 1974 in July 1986, the Department should issue a final negative determination with respect to DIE CAST, in accordance with our policy of taking into account program-wide changes that occur during an investigation. If the Department incorrectly determines that a negative determination is not appropriate, the Department should adjust the final estimated duty deposit rate to take into account this program-wide change. In the case of DIE CAST, this should result in a zero duty deposit rate.

DOC Position: We disagree. The Department's policy is to take program-wide changes into account when they occur prior to the preliminary determination. (See "Final Affirmative Countervailing Duty Determinations and Orders, Certain Textile Mill Products and Apparel from Peru" (50 FR 9871, March 12, 1985)). However, in this case, it was not a program-wide change, but a company specific change. Furthermore, this change did not occur until one month *after* the preliminary determination and DIE CAST will benefit from this program in calendar year 1986. It is not our policy to take into account a company-specific change that takes place after the preliminary determination. This is particularly true, where as here they are still receiving benefits from that program.

Comment 2: Respondents argue that the dual currency exchange system did not provide a countervailable subsidy to manufacturers, producers or exporters of window operators. The potential currency retention gain on exports is not a countervailable subsidy because it is neither an export subsidy nor a domestic subsidy. A currency gain is not a bonus on exports, which is what an export subsidy is defined as under the Subsidies Code. All Salvadoran manufacturers were eligible to purchase dollars at the official rate to pay for imports. Manufacturers who did not export could repatriate dollars received from other sources at the parallel rate. Because this system provided a better return on imports purchased with official rate dollars to non-exporters than to exporters, it is not an export subsidy. Further, it was not limited to a specific enterprise or industry, or group thereof, and therefore, could not be a domestic subsidy.

DOC Position: Since the dual exchange rate system was terminated prior to our initiation of this countervailing duty investigation and since we verified that no benefits were received or accrued under the program after its termination in June 1985, it is not necessary to determine whether El Salvador's dual exchange rate system constituted a subsidy.

Comment 3: Respondents content that if the Department (erroneously) attributes DIE CAST's income tax benefit to IMSA, it should recognize that IMSA had to sell the operators to DIE CAST in order to receive the subsidy and pay stamp taxes to the Government of El Salvador on those sales. IMSA would not have had to pay stamp taxes if they had exported the merchandise directly to the United States. Thus, any gross subsidy imputed to IMSA, should be reduced by stamp taxes paid.

DOC Position: Since we did not attribute the income tax exemption for export earnings to IMSA, this issue is moot.

Final Negative Determination of Critical Circumstances

The petitioners alleged that "critical circumstances" exist within the meaning of section 705(a)(2) of the Act, with respect to imports of operators for jalousie and awning windows from El Salvador. In order to find that critical circumstances exist, we must determine that:

(a) The alleged subsidy is inconsistent with the Agreement, and

(b) There have been massive imports of the subject merchandise over a relatively short period.

Pursuant to section 705(a)(2)(B), we generally consider the following data in order to determine whether massive imports have taken place: (1) The volume and value of the imports; (2) seasonal trends; and (3) the share of domestic consumption accounted for by the imports.

To determine whether imports have been massive over a relatively short period, we analyzed recent trade statistics on import levels for this merchandise for equal periods immediately preceding and following the filing of the petition, the first and second quarters of 1986. While there was an increase in imports in/during the second quarter over those for the first quarter of 1986, the average monthly imports in the second quarter of 1986, the average monthly imports in the second quarter of 1986 were less than half the monthly average of imports in 1985, and second quarter 1986 imports are part of an overall decline in imports since the beginning of 1986.

Since we have not found massive imports over a relatively short period of time, we need not determine whether the alleged subsidies are inconsistent with the Agreement. Therefore, we determine that critical circumstances do not exist.

Verification

In accordance with section 776 (a) of the Act, we verified the data used in making our final determination. We conducted the verification in El Salvador from July 8 through July 16, 1986.

During verification, we followed normal verification procedures, including meeting with government officials, inspecting government documents and inspecting the accounting and financial records of the companies producing and exporting the merchandise under investigation to the United States.

Suspension of Liquidation

In accordance with our preliminary countervailing duty determination (51 FR 22099, June 18, 1986) we directed the U.S. Customs Service to suspend liquidation of the products under investigation and to require that a cash deposit or bond be posted equal to the estimated final net subsidy. However the due date for the countervailing duty determination was extended to coincide with the final antidumping duty determination (51 FR 27233, July 30, 1986). Under Article 5, paragraph 3 of the Subsidies Code, provisional measures cannot be imposed for more than four months. Thus, we could not impose a suspension of liquidation on the subject merchandise for more than four months without final determinations of subsidization and injury. Therefore, we instructed the U.S. Customs Service to discontinue the suspension of liquidation on the subject merchandise entered after October 18, 1986.

Currently, liquidation is not being suspended pending the outcome of the ITC's injury determination on window operators from El Salvador. If we issue a final countervailing duty order, we will instruct the U.S. Customs Service to collect a cash deposit of 4.76 percent *ad valorem*, on all exports of operators for jalousie and awning windows from El Salvador, except for those exported by IMSA.

ITC Notification

In accordance with section 705(c) of the Act, we will notify the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without consent of the Deputy Assistant Secretary for Import Administrative.

The ITC will determine whether these imports materially injure, or threaten material injury to, a United States industry within 45 days after the date of publication of this notice. If the ITC determines that injury, or the threat of material injury, does not exist, this proceeding will be terminated and all estimated duties deposited or securities posted as a result of the suspension of liquidation will be refunded or cancelled. If, however, the ITC determines that injury exists, we will issue a countervailing duty order, directing Customs officers to resume the suspension of liquidation and collect cash deposits on entries of operators for jalousie and awning windows from El Salvador that are entered, or withdrawn from warehouse, for consumption as described in the "Suspension of Liquidation" section of this notice.

This notice is published pursuant to section 705(d) of the Act (19 U.S.C. 1671d(d)).

Lee W. Mercer,

Acting Assistant Secretary for Trade Administration.

[FR Doc. 86-25884 Filed 11-14-86; 8:45 am]

BILLING CODE 3510-DS-M

[A-211-601]

Operators for Jalousie and Awning Windows From El Salvador: Final Determination of Sales at Less Than Fair Value

ACTION: Notice.

SUMMARY: We have determined that operators for jalousie and awning windows from El Salvador are being, or are likely to be, sold in the United States at less than fair value. The United States International Trade Commission (ITC) will determine, within 45 days of publication of this notice, whether these imports are materially injuring, or threatening material injury to, a United States industry. We have also directed the United States Customs Service to continue to suspend liquidation of all entries of operators for jalousie and awning windows from El Salvador that are entered or withdrawn from warehouse, for consumption, on or after the date of publication of this notice, and to require a cash deposit or bond for each entry in an amount equal to the estimated dumping margin as described in the "Constitution of Suspension of Liquidation" section of this notice.

EFFECTIVE DATE: November 17, 1986.

FOR FURTHER INFORMATION CONTACT: Mary S. Clapp, Office of Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 377-1769.

SUPPLEMENTARY INFORMATION:

Final Determination

We have determined that operators for jalousie and awning windows from El Salvador are being, or are likely to be sold in the United States at less than fair value as provided in section 735 of the Tariff Act of 1930, as amended (19 U.S.C. 1673d) (the Act). The margin

applicable to all exporters is 40.20 percent.

Case History

On March 19, 1986, we received a petition in proper form filed by the Anderson Corporation and the Caribbean Die Casting Corporation. In compliance with the filing requirements of §353.36 of the Commerce Regulations (19 CFR 353.36), the petition alleged that imports of the subject merchandise from El Salvador are being, or are likely to be, sold in the United States at less than fair value within the meaning of section 731 of the Act, and that these imports are causing material injury, or threaten material injury, to a United States industry.

After reviewing the petition, we determined that it contained sufficient grounds upon which to initiate an antidumping duty investigation. We initiated the investigation on April 8, 1986 (51 FR 13039, April 17, 1986) and notified the ITC of our action.

On May 5, 1986, the ITC found that there is a reasonable indication that imports of operators for jalousie and awning windows from El Salvador are threatening material injury to a United States industry (U.S. ITC Pub. No. 1843, May, 1986).

We presented a questionnaire to Industries Metalicas, S.A. (IMSA) on April 18, 1986, since we had information indicating that it accounted for virtually all of the exports to the United States during the period of investigation, October 1, 1985 to March 31, 1986. A response was received from IMSA on May 21, 1986. We verified the response at the company's offices in El Salvador from July 16 to July 18, 1986.

We issued a preliminary determination of sales at less than fair value on August 26, 1986 (51 FR 31350, September 3, 1986). Our notice of the preliminary determination provided interested parties with an opportunity to submit views orally or in writing. Accordingly, we held a public hearing on September 24, 1986.

Scope of Investigation

The products covered by this investigation are operators for jalousie and awning windows, which are currently provided for under item 647.0365 of the *Tariff Schedules of the United States Annotated* (TSUSA).

Fair Value Comparisons

To determine whether sales of the subject merchandise in the United States were made at less than fair value, we compared the United States price with the foreign market value.

United States Price

As provided for in section 772(b) of the Act, for sales by IMSA, we based United States price on purchase price because the operators for jalousie and awning windows are sold to unrelated purchasers in the United States prior to importation.

We made a deduction from ex-factory, insured prices for marine insurance.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we based foreign market value of IMSA on sales in the home market. We made deductions from delivered prices for a stamp tax, inland freight, and inland insurance. We made an adjustment for differences in credit terms between the respective markets, in accordance with §353.15 of our regulations. For purposes of this determination, we adjusted the calculation we made for the preliminary determination to reflect more accurately the actural credit costs incurred by the respondent. Respondent has claimed a circumstance of sale adjustment for commissions paid to collection agents. However, at verification respondent failed to tie these commissions to the subject merchandise or to the sales under consideration. Therefore, we denied this adjustment because it was not supported and did not consider its merits. We deducted home market packing and added U.S. packing.

Currency Conversion

We made currency conversions from El Salvadoran colones to U.S. dollars in accordance with §353.56(a) of our regulations. Normally, we use certified exchange rates furnished by the Federal Reserve Bank of New York, but no certified rates were available for El Salvador. Therefore, we used monthly exchange rates published by Bank of America, London, as best information available.

Negative Determination of Critical Circumstances

The petitoners allege that "critical circumstances" exist within the meaning of section 735(a)(3) of the Act, with respect to imports of operators for jalousie and awning windows from El Salvador. In determining whether critical circumstances exist, we must examine whether:

(A) (i) There is a history of dumping in the United States or elsewhere of the class or kind of merchandise which is the subject of the investigation; or

(ii) The person by whom, or for whose account, the merchandise was imported knew or should have known that the exporter was selling the merchandise which is the subject of the investigation at less than fair value; and

(B) There have been massive imports of the class or kind of merchandise which is the subject of the investigation over a relatively short period.

Pursuant to section 735(a)(3)(B), we generally consider the following data in order to determine whether massive imports have taken place: (1) The volume and value of the imports; (2) seasonal trends; and (3) the share of domestic consumption accounted for by the imports.

To determine whether imports have been massive over a relatively short period, we analyzed respondent's recent trade statistics on exports of this merchandise for equal periods immediately preceeding and following the filing of the petition, the first and second quarters of 1986. While there was an increase in imports during the second quarter over those for the first quarter of 1986, the average monthly imports in the second quarter of 1986 were both less than half the monthly average of imports in 1985, and part of an overall decline in imports since the beginning of 1985. With respect to recent history, the first quarter 1986 imports represent an unusually low shipment rate. Based on this analysis, we find that imports of the subject merchandise have not been massive over a short period.

Since we do not find that there have been massive imports, we do not need to consider whether there is a history of dumping or whether importers of this product knew or should have known that it was being sold at less than fair value.

Therefore, we determine that critical circumstances do not exist with respect to imports of operators for jalousie and awning windows from El Salvador.

Verification

As provided in section 776(a) of the Act, we verified data used in making this determination by following procedures which included on-site inspection of the manufacturer's facilities, and examination of company records and selected original source documentation containing relevant information.

Petitioners' Comments

Comment 1: Petitioners argue that an additional deduction must be made from the U.S. purchase price for a commission or other consideration allegedly paid to the distributor for all sales to Puerto Rico.

This allegation is based on a resale invoice from the distributor to a Puerto Rico purchaser indicating prices below those shown in the questionnaire response.

DOC Response: At verification we found no evidence of any commission or other consideration paid to the Puerto

Rico distributors. The invoice presented as evidence supporting the allegation indicates that the purchase order was dated in 1984, almost a year prior to our period of investigation. Therefore, the price on the invoice cannot be compared to sales prices during the period of investigation.

Comment 2: Petitioners argue that the respondent's claim for a circumstance of sale adjustment concerning a volume discount for jalousie operators sold to Puerto Rico should not be allowed.

DOC Position: We agree. See our response to respondent's comment #1.

Comment 3: Petitioners contend that the respondent's claim for the deduction from home market prices of the government stamp tax is inappropriate because the customers actually pay the tax.

DOC Position: We disagree. We verified that the respondent pays the stamp tax to the government, based on monthly sales value. Petitioners' contention is based on a statement in the verification report that the tax was collected from customers and remitted to the government. That statement should have indicated that the tax was included in the sales price.

Comment 4: Petitioners contend that respondent's financial statements must be presented to the Department in order to allow the Department to analyze the data.

DOC Position: We have determined that there is sufficient documentation on the record to support our analysis of IMSA's prices and claims for adjustments.

Comment 5: Petitioners argue that there have been massive imports of the merchandise under investigation, and that the Department should take into account that the respondent knew that an antidumping petition was going to be filed, and acted accordingly.

DOC Position: We disagree. See our discussion above in the "Negative Determination of Critical Circumstances" section of this notice. Since we find that imports were not massive over a relatively short period, respondent's possible knowledge of the filing of the petition is irrelevant, and we have not found any evidence of such knowledge.

Respondent's Comments

Comment 1: Respondent requests an adjustment for differences in quantities based on its estimate of cost savings for the higher volume of jalousie operators sold to the United States.

DOC Position: We disagree. The claimed adjustment was based on estimated costs savings, not on actual production experience. This estimate was based on an allocation of fixed costs between jalousie operators and other product lines. The resulting pool of costs was then allocated over theoretical increased volumes of production. The method of allocation does not reflect the effects of differing production levels of other products or differences in variable costs. In addition, respondent did not demonstrate that the production capacity for jalousie operators would permit the production levels used in its analysis either by trying it to actual experience or actual physical capacity. For the various reasons cited above, we determine that the estimate provided by respondent cannot be tied to actual costs differences for claimed differences in production levels and, therefore, this adjustment was not allowed.

Comment 2: Respondent claims that we improperly compared awning operators sold to the United States to those sold in the home market. The Department should have compared sales of awning operators in the United States, with sales of jalousie operators, with an adjustment for differences in physical characteristics. The claim is based on the small number of awning operators sold in the home market.

DOC Position: We determined that there were sufficient sales of jalousie and awning window operators which constitute such or similar merchandise in the home market to form an adequate basis for determining foreign market value. After determining that there is a viable home market, we then determine which product among such or similar products is the most similar. There were sales of awning operators, which constitute identical merchandise, in the home market. Since the statutory preference is for comparisons of identical ("such") merchandise, we compared sales of awning operators in both markets. Similarly, we compared sales of jalousie operators in both markets. Since we did not compare awning operators to jalousie operators, no adjustment for differences in physical characteristics was necessary.

Comment 3: Respondent claims that the Department should make a circumstance of sale adjustment for the "competitive discount" offered to U.S. customers. IMSA reportedly offers this discount because of: (1) Fears of non or late delivery due to politically-related disruptions in El Salvador, which do not pertain to other countries supplying operators in the U.S. market, and for which buyers in the home market have made accommodations since IMSA is the only supplier of operators in El Salvador; and (2) prior problems with quality, which resulted in the need to provide a discount as an incentive to U.S. purchasers.

If the Department does not grant an adjustment for differences in circumstances of sale, it should allow these discounts as differences in the physical characteristics of the merchandise, *as perceived* by Salvadoran and U.S. customers. The amount of the adjustment under either theory should be the difference between the home market price and U.S. market price.

DOC Position: We have denied these adjustments for the following reasons.

First, the antidumping law and regulations permit the granting of these types of adjustments only to the extent that the Department is satisfied that any price differential is wholly or partly due to such differences in circumstances of sale or physical characteristics. With respect to adjustments for differences in physical characterists, 19 CFR 353.16 also requires that those differences have a measurable effect on the cost of production or market value of the merchandise in the respective markets. Respondent has neither quantified these differences, nor supported any method of quantification. Respondent's suggestion that we quantify these differences by comparing United States price with foreign market value is unreasonable, for that is exactly what we do to obtain the margin of dumping. Respondent is in effect claiming that any dumping margin would be attributable to differences in circumstances of sale and physical characteristics.

Second, the political situation in El Salvador creates the risk of no or late delivery of this merchandise in both the United States and the home market. There is no "bona fide" difference in the circumstances of sale in the different markets. The claim that this risk has less effect upon purchasers in El Salvador is entirely without support. The fact that IMSA is the only supplier for the domestic market is irrelevant. The fact that there is only one supplier in the home market increases the likelihood that the theory that a monopolistic home market supplier can maximize home market profits in order to support low priced export sales may apply.

Third, circumstance of sale adjustments may only be based upon differences between the sales that form the basis for United States price and foreign market value of the merchandise under investigation. In determining whether sales are at less than fair value, we are not concerned with the comparability of IMSA's product with the products of other sellers in the U.S. market.

Fourth, respondent has not provided evidence which demonstrates that there are actual physical differences between the merchandise sold in the United

States and El Salvador, and the Department cannot make adjustments for unquantified "perceived" differences. Only tangible differences in the value of the merchandise can form the basis for adjustment.

Continuation of Suspension of Liquidation

We are directing the United States Customs Service to continue to suspend liquidation of all entries of operators for jalousie and awning windows from El Salvador that are entered, or withdrawn from warehouse, for consumption, on or after September 3, 1986, the date of publication of the preliminary determination in the **Federal Register.** The United States Customs Service shall continue to require a cash deposit or the posting of a bond equal to the estimated weighted-average amount by which the foreign market value of the merchandise subject to this investigation exceeds the United States price. With respect to entries or withdrawals made on or after the publication of this notice, the bond or cash deposit amounts required are shown below.

Article VI.5 of the General Agreement on Tariffs and Trade provides that "[n]o product . . . shall be subject to both antidumping and countervailing duties to compensate for the same situation of dumping or export subsidization." This provision is implemented by section 772(d)(1)(D) of the Act, which prohibits assessing dumping duties on the portion of the margin attributable to export subsidies. In the final countervailing duty determination on operators for jalousie and awning windows from El Salvador, which is being published simultaneously with this notice, we found export subsidies. Since dumping duties cannot be assessed on the portion of the margin attributable to export subsidies, there is no reason to require a cash deposit or bond for that amount. Thus, the amount of the export subsidies will be subtracted for deposit or bonding purposes from the dumping margins.

Manufacturer/Producer/Exporter	Weighted Average Margin Percentage
Industrias Metalicas, S.A.	40.20
All others	40.20

ITC Notification

In accordance with section 735(d) of the Act, we will notify the ITC of our determination. We will allow the ITC access to all privileged and confidential information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under an administrative protective order, without the written consent of the Deputy Assistant Secretary for Import Administration.

The ITC will make its determination whether these imports are materially injuring, or threatening material injury to, a United States industry within 45 days of the publication of this notice. If the ITC determines that material injury or threat of material injury does not exist, this proceeding will be terminated and all securities posted as a result of the suspension of liquidation will be refunded or cancelled. However, if the ITC determines that such injury does exist, we will issue an antidumping duty order directing Customs officers to assess an antidumping duty on operators for jalousie and awning windows from El Salvador entered, or withdrawn from warehouse, for consumption after the suspension of liquidation, equal to the amount by which the foreign market value exceeds the United States price.

This determination is being published pursuant to section 735(d) of the Act (19 U.S.C. 1673d(d)).

November 10, 1986.

Lee W. Mercer,

Acting Deputy Assistant Secretary for Trade Administration.

[FR Doc. 86-25880 Filed 11-14-86; 8:45 am]

BILLING CODE 3510-DS-M

[Docket No. 4652-03]

Actions Affecting Export Privileges; Hendrick G. Wasmoeth

Facts

On February 3, 1984, the Hearing Commissioner issued a temporary denial order (TDO) against Hendrick G. Wasmoeth (Wasmoeth), Edward F. King (King) and Louis R. Klement (Klement). The Hearing Commissioner recited as the basis for issuance of the TDO a 10-count Federal Grand Jury indictment charging the respondents with conspiracy, as well as aiding and abetting exports and/or diversions of U.S.-origin equipment from the United States to Bulgaria through Holland without the required export license. The indictment continues to be outstanding as to Wasmoeth, a foreign national. King and Klement pled guilty to the conspiracy count and King pled guilty to attempting to export U.S.-origin equipment without the required licenses as well.

On April 9, 1986, Wasmoeth moved to have the TDO against him vacated. The Administrative Law Judge (ALJ) ordered the United States Department of Commerce (the Department) to provide him with a schedule for formally charging Wasmoeth. The Department stated that a charging letter would be issued against Wasmoeth by the end of June 1986. The Department issued a charging letter against Wasmoeth on June 30, 1986. The respondent acknowledged receipt of the charging letter, but the ALJ apparently did not receive notice of the charging letter prior to his decision.

On July 14, 1986, the ALJ, unaware of the charging letter and pursuant to the provisions of the Export Administration Act Amendments of 1985 (Amendments Act), vacated the TDO against Wasmoeth. He concluded that the TDO was invalid in fact and in law. In his Order of Dismissal, the ALJ concluded that the provisions of the Export Administration Act Amendments of 1985 apply to all TDO's, including those issued on or before July 11, 1985. Apparently basing his decision on the fact that no charging letter had been issued, and that there has been no application for renewal of the TDO pursuant to the provisions of the Amendments Act and the Regulations relating thereto, the ALJ vacated the TDO. It remains unclear whether the ALJ dismissed the TDO because the charging letter had not been issued by the end of June, because the Amendments Act standards were not applied, or because a 60-day renewal was not sought. Pursuant to § 388.22 of the 1984 Regulations, the Department has appealed that decision.

Issues

1. Whether pending TDO's issued prior to July 12, 1985 are governed by the Export Administration Act of 1979 and the Regulations promulgated thereunder, or are governed by changes in the law and regulations made pursuant to the Amendments Act.

2. Whether the ALJ's Order vacating the TDO was proper under the circumstances.

Discussion and Findings

A general rule of statutory construction is that statutes affecting antecedent rights are prospective while changes in the law relating only to procedures or remedies are usually held to be immediately applicable to pending cases.[1] Statutory amendments affecting substantive rights and liabilities are presumed to have only prospective effect.[2] Moreover, changes in substantive requirements should not be presumed to operate retroactively.[3]

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[1] *Turner* v. *United States*, 410 F.2d 837 (5th Cir. 1977).

[2] *Bennett* v. *New Jersey*, ____U.S. ____, 105 S.CT 1555, 84 L.Ed.2d 572 (1985).

[3] *Id., See also, United States* v. *Security Industrial Bank*, 459 U.S. 70, 79 (1982); *Greene* v. *United States*, 376 U.S. 149, 160 (1964); *Friel* v. *Cessna Aircraft Co*, 751 F.2d 1037, 1039 (9th Cir. 1985).

Before the Amendments Act was passed by Congress, the Department derived its power to promulgate TDO regulations from the authority granted to it by the Export Administration Act of 1979 [4] (the Act) to prohibit or curtail exports when necessary to protect the public interest. Under the 1984 Regulations, issuance of a TDO depended on a showing that the TDO was necessary in the public interest to permit or facilitate enforcement of the Act, to avoid circumvention of any administrative or judicial proceedings, or to permit completion of an investigation. [5] The Amendments Act changes both the substance and procedure of TD issuance; however, the statute is silent on the issue of retroactivity.

The new guidelines, set forth in section 13(d) of the Amendments Act, require proof of an "imminent violation of the (Amendments) Act" to justify issuance of a TDO. [6] This is a substantive amendment because it changes the standard of proof required for issuance. The Amendments Act changes procedure in that it requires TDO's to be issued by the Deputy Assistant Secretary for Export Enforcement for no longer than 60 days, with renewals for subsequent 60 day periods upon a showing of danger of continued imminent violation. [7]

Since the Amendments Act changes both substance and procedure, the new standards must be applied prospectively. The presumption is that the Amendment Act applies to TDO's issued in or after July 12, 1985 since the changes effect the substantive showing that is required of the Department. If Congress had intended otherwise, it could have made the new standards and procedures of section 13(d) retroactive by explicit declaration of the new standards and procedures of the Amendments Act, the presumption is that the new law is prospective. Thus, the 1986 Regulations provide as follows:

(f)or temporary denial orders issued on or before July 11, 1985, the proceedings will be governed by the applicable regulations in effect at the time the temporary denial orders were issued. [8]

Since the 1986 Regulations carry out the intent and the purpose of the Amendments Act, the Regulations are both valid and enforceable.

Having addressed the issue of retroactivity as above, the remaining issue is whether the TDO was justified when issued and whether its continuance is justified under both its terms and the Regulations under which it was issued. The 1984 Regulations provide:

The presiding official may issue (a TDO) upon a showing that the order is required in the public interest to facilitate enforcement of the Act, any applicable Executive Order, or the Regulations; to avoid circumvention of such administrative or judicial proceedings; or to permit the completion of such investigation. The order shall be issued initially only for such period of time, ordinarily not exceeding 30 calendar days, as may be required to complete the administrative or judicial proceedings, or to complete the investigation.[9]

On February 3, 1984, the then Hearing Commissioner issued a TDO based on the showing made by the Department. The Department's evidence was that, in November 1983, a federal grand jury, in a 10-count indictment, charged: (1) King, Klement, Wasmoeth and others with conspiring to export and cause the export of U.S.-origin equipment from the United States to Bulgaria without obtaining the required validated export license; (2) King and Klement, aided and abetted by Wasmoeth, with exporting and causing to be exported U.S.-origin equipment without obtaining the required validated exported license, and (3) King and Klement, aided and abetted by Wasmoeth, with exporting and diverting, and causing to be exported and diverted U.S.-origin equipment from the United States through Holland to Bulgaria by falsely stating and representing on Shipper's Export Declarations the destination of the subject of U.S.-origin equipment to be Holland when in fact it was Bulgaria. King and Klement pled guilty to the conspiracy count and King pled guilty to attempting to export U.S.-origin equipment without the required licenses. Wasmouth, a foreign national who was charged as a co-conspirator of King and Klement, has never responded to the grand jury's indictment, which remains outstanding. All three respondents have been charged by the Office of Export Enforcement and have acknowledged receipt of the charging letters dated June 30, 1986.

At the time of issuance, the then Hearing Commissioner found a sufficient basis to impose the TDO. He found that the TDO "was required in the public interest to facilitate enforcement of (the Act)" and that it would remain in effect until the administrative proceedings were completed.[10] By issuing the charging letter, the Department has commenced an administrative proceeding within the meaning of § 388.19 of the 1984 Regulations.[11] Given the serious nature of the charges in the charging letter and the unanswered indictment, it is in the pubic interest to maintain the TDO in this case.

Order

Therefore, it is ordered that the initial decision of the ALJ dismissing the TDO against Hendrick G. Wasmoeth is hereby vacated. The TDO issued on February 3, 1984 is to remain in effect and his name is to be returned to the Table of Denied Parties.

1. All TDO's issued on or before July 11, 1985 are governed by the Export Administration Act of 1979 and the Regulations promulgated thereunder and in effect at the time of issuance of the TDO.

2. The decision of the ALJ vacating the TDO against Hendrick G. Wasmoeth is hereby vacated and Wasmoeth's name is to be relisted on the Table of Denied Parties.

3. The TDO against Wasmoeth shall remain in full force and effect until resolution of the administrative action now pending against him.

Dated: November 7, 1986.

Paul Freedenberg,

Assistant Secretary for Trade Administration.

[FR Doc. 86-25868 Filed 11-14-86; 8:45 am]

BILLING CODE 3510-DT-M

National Oceanic and Atmospheric Administration

Endangered Species; Application for Permit; Southeast Fisheries Center, National Marine Fisheries Service (P77 #25)

Notice is hereby given that an Applicant has applied in due form for a Permit to take endangered species as authorized by the Endangered Species Act of 1973 (16 U.S.C. 1531-1543), and the National Marine Fisheries Services regulations governing endangered fish and wildlife permits (50 CFR Parts 217 through 222).

1. Applicant:

a. Name Southeast Fisheries Center, National Marine Fisheries Service.

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[4] Export Administration Act of 1979, 50 U.S.C. app. 2401-2420 (1982).

[5] 15 CFR 388.19(a)(2) (1984).

[6] Export Administration Act of 1979, 50 U.S.C. app. 2401-2420 (1982), as amended by the Export Administration Act Amendments of 1985, Pub. L. 99-64, 99 Stat. 120 (July 12, 1985). *See also*, 15 CFR Part 388.19 (b)(1) (1986).

[7] 15 CFR 388.19(b) through (d) (1986).

[8] 15 CFR 388.19 (1986).

[9] 15 CFR 388.19(a)(2) (1984).

[10] 49 FR 4959 (February 9, 1984).

[11] 15 CFR 388.19(a)(2)((1984).

b. Address: 75 Virginia Beach Drive, Miami, Florida 33149.

2. Type of Permit: Scientific Purposes.

3. Species Requested:

Atlantic ridley (*Lepidochelys kempi*)
Hawksbill (*Eretmochelys imbricata*)
Loggerhead (*Caretta caretta*)
Leatherback (*Dermochelys coriaces*)
Green (*Chelonia mydas*)
Olive ridley (*Lepidochelys olivacea*)

4. Type of Take: An unspecified number of marine turtles will be taken by the following means: importation; incidental capture and release; removal for rehabilitation; attachment of transmitters and tracking; tagging; aerial surveys; collection of dead animals; and collection of biological samples from dead and live animals.

5. Location of Activity: U.S. waters and waters throughout the West Central Atlantic area.

6. Period of Activity: 5 Years.

Concurrent with the publication of this notice in the **Federal Register**, the Secretary of Commerce is forwarding copies of this application to the Marine Mammal Commission and the Committee of Scientific Advisors.

Written data or views, or requests for a public hearing on this application should be submitted to the Assistant Administrator for Fisheries, National Marine Fisheries Service, U.S. Department of Commerce, Washington, DC 20235, within 30 days of the publication of this notice. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular application would be appropriate. The holding of such hearing is at the discretion of the Assistant Administrator for Fisheries.

Documents submitted in connection with the above application are available for review by interested persons in the following offices:

Office of Protected Species and Habitat Conservation, National Marine Fisheries Services, 1825 Connecticut Avenue NW., Room 805, Washington, DC; and

Director, National Marine Fisheries Service, Southeast Region, 9450 Koger Boulevard, St. Petersburg, Florida 33702.

Dated: November 10, 1986.

Richard B. Roe,

Director, Office of Fisheries Management, National Marine Fisheries Service.

[FR Doc. 86-25825 Filed 11-14-86; 8:45 am]

BILLING CODE 3510-22-M

Coastal Zone Management; Federal Consistency Appeal by Exxon From an Objection by the California Coastal Commission

AGENCY: National Oceanic and Atmospheric Administration.

ACTION: Public hearing schedule.

A public hearing will be held November 24, 1986, in the appeal filed under the Coastal Zone Management Act by Exxon U.S.A. from an objection by the California Coastal Commission. The Commission objected to Exxon's proposed production and development plan for the Santa Ynez Unit, 19 contiguous oil and gas lease tracts located on the Outer Continental Shelf in the Western Santa Barbara Channel.

The hearing, held in the Santa Barbara High School auditorium, will follow this schedule:

3:30 p.m.—registration for speakers (first come, first serve basis)
4 p.m.—presentations by Exxon, the California Coastal Commission and the County of Santa Barbara (20 minutes each)
5 p.m.—government representatives (7 minutes each)
6:30 p.m.—break
7:15 p.m.—resume hearing; representatives from organizations (5 minutes each); individuals (5 minutes each)

Because of the great number of individuals who have expressed an interest in speaking, these time limitations will be strictly enforced. Speakers are also reminded to limit their comments to those issues remaining to be decided on appeal. See 51 FR 37469 (Oct. 22, 1986).

As much as possible, speakers in support of Exxon's position will be scheduled alternately with those in support of the Commission's position. Speakers may also submit written comments to the record in lieu of or in addition to oral testimony.

FOR ADDITIONAL INFORMATION CONTACT: L. Pittman at (202) 673-5200.

(Federal Domestic Assistance Catalog No. 11.419 Coastal Zone Management Program Administration)

Dated: November 12, 1986.

Daniel W. McGovern,

General Counsel, National Oceanic and Atmospheric Administration.

[FR Doc. 86-25869 Filed 11-14-86; 8:45 am]

BILLING CODE 3510-08-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Increasing the Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in Indonesia

November 12, 1986.

The Chairman of the Committee for the Implementation of Textile Agreements (CITA), under the authority contained in E.O. 11651 of March 3, 1972, as amended, has issued the directive published below to the Commissioner of Customs to be effective on November 18, 1986. For further information contact Pamela Smith, Trade Reference Assistant, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212.

Background

A CITA directive dated June 25, 1986 (51 FR 23807) established limits for certain specified categories of cotton, wool and man-made fiber textile products within the aggregate limit, including categories subject to specific limits (Group I) and those categories not subject to specific limits (Group II), produced or manufactured in Indonesia and exported during the agreement year which began on July 1, 1986 and extends through June 30, 1987.

Under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 25 and October 3, 1985, as amended, between the Government of the United States and the Republic of Indonesia and at the request of the Government of the Republic of Indonesia, swing is being applied to the restraint limits established for Group I and the individual specific limit for cotton shop towels in Category 369-S (only TSUSA number 366.2840), increasing them to 249,549,134 square yards equivalent and 1,020,780 pounds, respectively. To account for swing applied to the foregoing group and category limits the limit for Group II is being reduced to 54,506,912 square yards equivalent.

A description of the textile categories in terms of T.S.U.S.A. numbers was published in the **Federal Register** on December 13, 1982 (47 FR 55709), as amended on April 7, 1983 (48 FR 15175), May 3, 1983 (48 FR 19924), December 14, 1983, (48 FR 55607), December 30, 1983 (48 FR 57584), April 4, 1984 (49 FR 13397), June 28, 1984 (49 FR 26622), July 16, 1984 (49 FR 28754), November 9, 1984 (49 FR 44782), and In Statistical Headnote 5, Schedule 3 of the Tariff Schedule of the United States Annotated (1986).

Schedule of the United States Annotated (1986).

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 12, 1986.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229

Dear Mr. Commissioner: This directive amends, but does not cancel, the directive of June 25, 1986 from the Chairman, Committee for the Implementation of Textile Agreements, which established restraint limits for certain cotton, wool and man-made fiber textile products, produced or manufactured in Indonesia and exported during the agreement year which began on July 1, 1986 and extends through June 30, 1987.

Effective on November 18, 1986, the directive of June 25, 1986 is hereby amended to adjust the previously established restraint limits for Groups I and II and Category 369–S[1] under the terms of the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement of September 25 and October 3, 1985, as amended, between the Governments of the United States and the Republic of Indonesia: [2]

Category	Adjusted 12-mo limit [1]
Group I	249,549,134 square yards equivalent.
Group II	54,506,912 square yards equivalent.
369–S	1,020,780 pounds.

[1] The limits have not been adjusted to reflect any imports exported after June 30, 1986.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553.

Sincerely,

William H. Houston III,

Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 86–25879 Filed 11–14–86; 8:45 am]

BILLING CODE 3510-DR-M

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

Procurement List 1987; Establishment; Notice Correction

In FR Doc. 86–24745 appearing at page 39945 in the issue for Monday, November 3, 1986, make the following corrections:

1. On page 39945, in the agency's title, the word "Severly" should read "Severely".

2. On page 39946, second column, under CLASS 1005, Sling, Padded, Adjustable, the two-digit number reading "–03" should read "–00".

3. On page 39947, second column, under CLASS 5140, Belt, Tool, Repairman's, second line, the four-digit number reading "–1694" should read "–2694".

4. On page 39948, at the bottom of the third column, the line reading "Trousers, Women's Pajama" should read "Trousers, Operating Surgical" and the line reading "Trousers, Operating Surgical" should read "Trousers, Women's Pajama".

5. On page 39949, first column, under CLASS 6645, Clock Wall, third and fourth lines, the two-digit number reading "–00" should read "–01".

6. On page 39949, second column, under CLASS 7210, Bedspread, thirteen lines down insert "Bedspring (IB)" as the next line.

7. On page 39950, at the bottom of the first column, under Sheet, Bed, Disposable, move the lines reading "Memphis, TN and Tracy, CA Depots only" to appear after the line reading "7210–00–498–0512".

8. On page 39950, second column, under CLASS 7220, Mat, Floor, delete the eleventh line.

9. On page 39950, third column, seventh line from the top, the two-digit number reading "–00" should read "–01".

10. On page 39951, first column, mid-way down, first and second lines, under Pocket Planning Set, the two-digit number reading "–00" should read "–01".

11. On page 39951, top of the third column, under Stand, Calendar Pad, third line, the four-digit number reading "–4177" should read "–4277". Same column mid-way down, under Card, Guide, File, first line, the three-digit number reading "–988" should read "–989".

12. On page 39952, top of the second column, under Paper, Teletypewriter, Roll, sixth line, the two-digit number reading "–00" should read "–01"; seventh line, the four-digit number reading "–6991" should read "–9691"; and eighteenth line, the four-digit number reading "–7950" should read "–7850". Same column, mid-way down, under Refill, Appointment Book, second line, the two-digit number reading "–00" should read "–01".

13. On page 39953, second column, under CLASS 7930, Detergent, General Purpose, fourth and eleventh lines, the two-digit number reading "–00" should read "–01". Same column, under CLASS 7930, Dishwashing Compound, Hand, second line, the two-digit number reading "–00" should read "–01".

14. On page 39953, third column, under CLASS 8010, Enamel, fifth and sixth lines, the two-digit numbers reading "–00" should read "–01". Same column, under CLASS 8105, Bag, Cotton, seventh line, the four-digit number reading "–0826" should read "–0836".

15. On page 39954, second column, under CLASS 8340, Shelter Half, Tent, Complete, the four-digit number reading "–8345" should read "–8340".

16. On page 39955, second column, under CLASS 8415, Apron, Food Handler's, fourth line, the two-digit number reading "–00" should read "–01".

17. On page 39955, third column, under CLASS 8440, Belt, Trousers, eleventh, thirteenth and fifteenth lines, the two-digit number reading "–00" should read "–01".

18. On page 39956, first column, under CLASS 8455, Holder, Identification, the three-digit number reading "–988" should read "–898".

19. On page 39957, first column, under Military Resale Commodities, after the forty-sixth line insert the following as the next lines:

581 Flatware, Assorted, PG of 24 (IB)
583 Flatware, Forks, PG of 24 (IB)
584 Flatware, Spoons, PG of 24 (IB)

20. On page 39959, third column, mid-way down, under Department of Treasury, the third line should read "Washington, DC (SH)".

21. On page 39960, second column, the thirty-third line should read "Centennial Mall North, Lincoln".

22. On page 39961, first column, the twenty-first line should read "Federal Building, U.S. Post Office, W. 904".

23. On page 39961, first column, the thirty-first line should read "Federal Building, 500 Quarrier Street, Charleston, West".

24. On page 39961, second column, mid-way down under, Department of Interior, after the second line, insert the following as the next line:

BLM, Oregon State Office, Portland, Oregon

C.W. Fletcher,

Executive Director.

[FR Doc. 86–25870 Filed 11–14–86; 8:45 am]

BILLING CODE 6820-33-M

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Grant Exclusive Patent License; Universal Energy Systems

Pursuant to the provisions of Part 101-4 of Title 41, Code of Federal

[1] In Category 369 only TSUSA numbers 366.2840.

[2] The agreement provides, in part, that: (1) Within the aggregate limit specific restraint limits may be exceeded by designated percentages; (2) administrative arrangements or adjustments may be made to resolve problems arising in the implementation of the agreement.

Regulations (47 FR 34148, August 6, 1982), the Department of the Air Force announces its intention to grant to Universal Energy Systems of Dayton, Ohio, an exclusive license under United States Patent No. 4,026,041 entitled "Two-Dimensional Drawing Board Manikin" issued May 31, 1977 to Kenneth W. Kennedy.

Any objection thereto, together with a request for an opportunity to be heard, if desired, should be directed in writing to the addressee set forth below within 60 days from the publication of this notice. Also copies of the Patent may be obtained for two dollars ($2.00) from the Commissioner of Patents and Trademarks, Washington, DC 20231.

All communications concerning this notice should be sent to: Mr. Donald J. Singer, Chief, Patents Division, Office of The Judge Advocate General, HQ USAF/JACP, 1900 Half Street, SW., Washington, DC 20324–1000, Telephone No. (202) 475–1386.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 86–25888 Filed 11–14–86; 8:45 am]

BILLING CODE 3910-01-M

DELAWARE RIVER BASIN COMMISSION

Commission Meeting and Public Hearing

Notice is hereby given that the Delaware River Basin Commission will hold a public hearing on Tuesday, November 25, 1986 beginning at 1:30 p.m. in the Jefferson Room of the Holiday Inn at 4th and Arch Streets, Philadelphia, Pennsylvania. The hearing will be part of the Commission's regular business meeting which is open to the public.

An informal pre-meeting conference among the Commissioners and staff will be open for public observation at about 11:00 a.m. at the same location.

The subjects of the hearing will be as follows:

Applications for Approval of the Following Projects Pursuant to Article 10.3, Article 11 and/or § 3.8 of the Compact:

1. *Philadelphia Electric Company (PECO) D–69–210 CP (Final): Revision No. 7.* An application by PECO to temporarily, during 1986, revise portions of the Limerick Generating Station project as included in the Comprehensive Plan and to approve the temporary change under § 3.8 of the Compact. The proposed revision is for the withdrawal of water from the Schuylkill River for consumptive use at Limerick Generating Station Unit No. 1, when existing flow constraints would otherwise prevent such withdrawal. PECO proposes that the current flow limit, which precludes the consumptive use of Schuylkill River water whenever the flow at the Pottstown gage in Montgomery County, Pennsylvania is less than 530 cfs and one unit operating, be reduced to 415 cfs temporarily through December 31, 1986. All other existing limitations currently in effect would remain. Recent operational problems with the Borough of Tamaqua system have resulted in curtailment in the water released for use at the Limerick Generating Station.

2. *Village of Wurtsboro D–81–28 CP RENEWAL.* An application for the renewal of a ground water withdrawal project to supply up to 17.3 million gallons (mg)/30 days of water to the applicant's distribution system from Linton Lane Well. Commission approval on July 22, 1981 was limited to five years and has expired. The applicant requests that the total withdrawal from the well remain limited to 17.3 mg/30 days. The project is located in the Village of Wurtsboro, Sullivan County, New York.

3. *Downingtown Area Regional Authority D–84–43 CP (Revised).* An application regarding the Downingtown Regional Water Pollution Control Center in East Caln Township, Chester County, Pennsylvania. The sewage treatment plant is currently being upgraded and expanded from 4 to 7 million gallons per day (mgd), as approved by Docket No. D–84–43, CP. The project is designed to serve the Borough of Downingtown, and portions of Caln, East Caln, and Uwchlan Township through the year 2000. Treatment plant effluent will continue to be discharged to East Branch Brandywine Creek. The application involves the revision of the discharge limits, the project owner, the deletion of a proposed final setting tank and various minor details.

4. *Town of Fallsburg—Loch Sheldrake Sewage Treatment Plant (STP) D–85–74 CP.* The Town of Fallsburg—Loch Sheldrake STP is being expanded from 0.274 mgd to a 0.700 mgd facility. The treatment scheme will employ the use of rotating biological discs. The SPDES permit requires disinfection from May 15 through October 15 only. The treatment plant will serve the Town of Fallsburg's expanded Loch Sheldrake Sewer District only and will discharge into Evens Lake in the Neversink River watershed at River Mile 253.64–27.3–9.4 in the Town of Fallsburg, Sullivan County, New York.

5. *Town of Fallsburg—South Fallsburg STP D–85–76 CP.* The existing Town of Fallsburg—South Fallsburg STP is being expanded from 1.5 mgd to a 2.77 mgd facility. The treatment scheme will employ the use of trickling filters and rotating biological discs. The SPDES permit requires disinfection from May 15 through October 15 only. The South Fallsburg Sewer District is being expanded to include flow from the Woodbourne Correctional Institute. The new treatment plant will discharge to the Neversink River at River Mile 253.64–32.5 in the Town of Fallsburg, Sullivan County, New York.

6. *BF Oil, Inc. D–86–41.* An application to modify and expand the applicant's Marcus Hook Refinery Wastewater Treatment Plant in the Borough of Trainer, Delaware County, Pennsylvania. The existing industrial waste treatment plant provides secondary level treatment for a design average flow of 2.88 mgd. The proposed plant will be designed to handle 4.3 mgd. The sanitary wastes from the estimated 600 employees is conveyed to the Delcora sewerage system. The treated process wastewater will continue to be discharged to Marcus Hook Creek through outfall 201 at River Mile 79.86–0.5 in Water Quality Zone 4. The proposed plant is designed to serve the applicant through the year 2006.

7. *Dover Air Force Base D–86–67 CP.* An application for approval of a ground water withdrawal project to supply up to 10.8 mg/30 days of water to the applicant's distribution system from new Well E, and to limit the withdrawal from all wells to 65 mg/30 days. The project is located near Lebanon, Kent County, Delaware.

Documents relating to these items may be examined at the Commission's offices. Preliminary dockets are available in single copies upon request. Please contact David B. Everett concerning docket-related questions. Persons wishing to testify at this hearing are requested to register with the Secretary prior to the hearing.

November 10, 1986.

Susan M. Weisman,

Secretary.

[FR Doc. 86–25810 Filed 11–14–86; 8:45 am]

BILLING CODE 6360-01-M

DEPARTMENT OF EDUCATION

Proposed Information Collection Requests

AGENCY: Department of Education.

ACTION: Notice of Proposed Information Collection Requests.

SUMMARY: The Deputy Under Secretary for Management invites comments on the proposed information collection

requests as required by the Paperwork Reduction Act of 1980.

DATE: Interested persons are invited to submit comments on or before December 17, 1986.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Desk Officer, Department of Education, Office of Management and Budget, 726 Jackson Place, NW., Room 3208, New Executive Office Building, Washington, DC 20503. Requests for copies of the proposed information collection requests should be addressed to Margaret B. Webster, Department of Education, 400 Maryland Avenue, SW., Room 4074, Switzer Building, Washington, DC 20202.

FOR FURTHER INFORMATION CONTACT: Margaret B. Webster (202) 426-7304.

SUPPLEMENTARY INFORMATION: Section 3517 of the Paperwork Reduction Act of 1980 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations.

The Director, Information Technology Services, publishes this notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g., new, revision, extension, existing or reinstatement; (2) title; (3) agency form number (if any); (4) frequency of collection; (5) the affected public; (6) reporting burden; and/or (7) recordkeeping burden; and (8) abstract. OMB invites public comment at the address specified above. Copies of the requests are available from Margaret Webster at the address specified above.

Dated: November 12, 1986.

Carlos U. Rice,

Acting Director, Information Technology Services.

Office of Postsecondary Education

Type of Review: Revision
Title: Application for the Comprehensive Program Final Year Dissemination Competition Under the Fund for the Improvement of Postsecondary Education
Agency Form Number: ED 0003
Frequency: Annually
Affected Public: State or local governments; Non-profit institutions; Small businesses or organizations
Reporting Burden:
Responses: 27
Burden Hours: 216
Recordkeeping Burden:
Recordkeepers: 27
Burden Hours: 216.

Abstract: This is a grant competition for competitive awards with a limited eligibility requirement. Only current grantees under the Comprehensive Program in their final year of funding or a recipient of a single year grant may apply for assistance within one year following the termination of the project. The purpose of the awards is to disseminate project results.

Office of Educational Research and Improvement

Type of Review: New
Title: Schools and Staffing Surveys
Agency Form Number: G50-25P
Frequency: On occassion
Affected Public: Individuals or households; State or local governments; Businesses or other for-profit; Non-profit institutions; Small businesses or organizations
Reporting Burden:
Responses: 3975
Burden Hours: 2838
Recordkeeping Burden:
Recordkeepers: 0
Burden Hours: 0.

Abstract: The purpose of this survey is to provide national and state estimates of teacher demand and shortage, school conditions and staffing, teacher quailfications, and administrator background. These data will be useful to policy makers at national, state, and local levels.

[FR Doc. 86-25896 Filed 11-14-86; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Economic Regulatory Administration

[ERA Docket No. 86-26-NG]

Northwest Marketing Co.; Order Approving Blanket Authorization To Import Natural Gas

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of order approving blanket authorization to import natural gas.

SUMMARY: The Economic Regulatory Administration (ERA) of the Department of Energy (DOE) gives notice that it has issued an order granting blanket authorization to Northwest Marketing Company (Northwest Marketing) to import Canadian natural gas on a short-term basis. The order issued in ERA Docket No. 86-26-NG authorizes Northwest Marketing to import up to 150 MMcf of Canadian natural gas per day for a two-year term beginning on the date of first delivery.

A copy of this order is available for inspection and copying in the Natural Gas Division Docket Room, GA-076, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585, (202) 252-9478. The docket room is open between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, except Federal holidays.

Issued in Washington, DC, November 7, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-25914 Filed 11-14-86; 8:45 am]
BILLING CODE 6450-01-M

[Docket No. ERA-C&E-87-01; OFP Case No. 64012-9295-26-24]

Acceptance of Petition for Exemption and Availability of Certification by Klondike Equity Enterprises, Inc.

AGENCY: Economic Regulatory Administration, DOE.

ACTION: Notice of acceptance.

SUMMARY: On October 3, 1986, Klondike Equity Eterprises, Inc. (KEE), filed a petition with the Economic Regulatory Administration (ERA) of the Department of Energy (DOE) requesting a permanent cogeneration exemption for a proposed electric powerplant to be located at its Klondike IV facility in Palm Springs, California, from the prohibitions of Title II of the Powerplant and Industrial Fuel Use Act of 1978 (42 U.S.C. 8301 *et seq.*) ("FUA" or "the Act"). Title II of FUA prohibits both the use of petroleum and natural gas as a primary enegy source in any new powerplant and the construction of any such facility without the capability to use an alternate fuel as a primary energy source. Final rules setting forth criteria and procedures for petitioning for exemptions from the prohibitions of Title II of FUA are found in 10 CFR Parts 500, 501, and 503. Final rules governing the cogeneration exemption were revised on June 25, 1982 (47 FR 292209, July 6, 1982), and are found at 10 CFR 503.37.

ERA has determined that the petition appears to include sufficient evidence to

support an ERA determination on the exemption request and it is therefore accepted pursuant to 10 CFR 501.3. A review of the petition is provided in the **SUPPLEMENTARY INFORMATION** section below.

As provided for in sections 701(c) and (d) of FUA and 10 CFR 501.31 and 501.33, interested persons are invited to submit written comments in regard to this petition and any interested person may submit a written request that ERA convene a public hearing.

The public file containing a copy of this Notice of Acceptance and Availability of Certification as well as other documents and supporting materials on this proceeding is available upon request through DOE, Freedom of Information Reading Room, 1000 Independence Avenue, SW., Room 1E-190, Washington, DC 20585, from 9:00 a.m. to 4:00 p.m., Monday through Friday, except Federal holidays.

ERA will issue a final order granting or denying the petition for exemption from the prohibitions of the Act within six months after the end of the period for public comment and hearing, unless ERA extends such period. Notice of any such extension, together with a statement of reasons therefor, would be published in the **Federal Register.**

DATES: Written comments are due on or before January 2, 1987. A request for a public hearing must be made within this same 45-day period.

ADDRESSES: Fifteen copies of written comments or a request for a public hearing shall be submitted to: Case Control Unit, Office of Fuels Programs, Room GA-093, Forrestal Building, 1000 Independence Avenue, SW., Washington, DC 20585.

Docket No. ERA-C&E-87-01 should be printed on the outside of the envelope and the document contained therein.

FOR FURTHER INFORMATION CONTACT:

Steven Mintz, Coal and Electricity Division, Office of Fuels Programs, Economic Regulatory Administration, 1000 Independence Avenue, S.W., Room GA-076, Washington, DC 20585, Telephone (202) 252-9506

Steven E. Ferguson, Esq., Office of General Counsel, Department of Energy, Forrestal Building, Room 6A-113, 1000 Independence Avenue, SW., Washington, DC 20585, Telephone (202) 252-6947

SUPPLEMENTARY INFORMATION: KEE proposes to construct and operate a cogeneration facility in Palm Springs California, which will (1) generate electrical power for sale to Southern California Edison Company and (2) produce steam to meet the requirements of the adjoining recreational complex. The system will consist of a gas turbine, a heat recovery steam generator, a steam turbine generator, an absorption refrigeration package, and ancillary equipment

The cogeneration facility is classified as an electric powerplant under FUA because more than 50 percent of its net annual electric generation will be sold.

Section 212(c) of the Act and 10 CFR 503.37 provide for a permanent cogeneration exemption from the prohibitions to Title II of FUA. In accordance with the requirements of §503.37(a)(1), KEE has certified to ERA that:

1. The gas to be consumed by the cogeneration facility will be less than that which would otherwise be consumed in the absence of the proposed powerplant, where the calculation of savings is in accordance with 10 CFR 503.37(b);

2. The use of a mixture of petroleum or natural gas and an alternate fuel in the cogeneration facility, for which an exemption under 10 CFR 503.38 would be available, would not be economically or technically feasible.

On February 23, 1982, DOE published in the **Federal Register** (47 FR 7676) a notice of the amendment to its guidelines for compliance with the National Environmental Policy Act of 1969 (NEPA). Pursuant to the amended guidelines, the grant or denial of a cogeneration FUA permanent exemption is among the classes of actions that DOE has categorically excluded from the requirement to prepare an Environmental Impact Statement or an Environmental Assessment pursuant to NEPA (categorical exclusion).

This classification raises a rebuttable presumption that the grant or denial of the exemption will not significantly effect the quality of the human environment. KEE has certified that it will secure all applicable permits and approvals prior to commencement of operation of the new unit under exemption.

DOE's Office of Environment, in consultation with the Office of General Counsel, will review the completed environmental checklist submitted by KEE pursuant to 10 CFR 503.13, together with other relevant information. Unless it appears during the proceeding on KEE's petition that the grant or denial of the exemption will significantly affect the quality of the human environment, it is expected that no additional environmental review will be required.

The acceptance of the petition by ERA does not constitute a determination that KEE is entitled to the exemption requested. That determination will be based on the entire record of this proceeding, including any comments received during the public comment period provided for in this notice.

Issued in Washington, DC, on November 6, 1986.

Robert L. Davies,

Director, Office of Fuels Programs, Economic Regulatory Administration.

[FR Doc. 86-25913 Filed 11-14-86; 8:45 am]

BILLING CODE 6450-01-M

Federal Energy Regulatory Commission

[Docket Nos. ER87-53-000 et al.]

Alabama Power Co. et al.; Electric Rate and Corporate Regulation Filings

November 7, 1986.

Take notice that the following filings have been made with the Commission.

1. Alabama Power Co.

[Docket No. ER87-53-000]

Take notice that on October 29, 1986, Alabama Power Company filed Twenty-Third Revised Sheet No. 37 to its FERC Electric Tariff, Original Volume No. 1. The purpose of this filing is to give notice that effective November 18, 1986, electric service to Black Warrior Electric Membership Corporation's new Melvin 44 kV delivery point will be established.

Copies of the filing were served upon Black Warrior Electric Membership Corporation.

Comment date: November 20, 1986, in accordance with Standard Paragraph E at the end of this notice.

2. Central Maine Power Co.

[Docket No. ER87-56-000]

Take notice that Central Maine Power Company (CMP), on October 29, 1986, tendered for filing proposed changes in its F.E.R.C. Electric Tariff, 8th Revised Volume No. 1, Wholesale Electric Rate for Other Utilities. Under the rate increase effective January 1, 1987, CMP would be permitted to increase its wholesale base rate by $325,000 for the twelve-month period ended June 30, 1985; effective October 1, 1987, CMP would be permitted to further revise its wholesale base rate by an additional $324,000 for the twelve-month period ended June 30, 1985.

The proposed tariff implements a Stipulation and Contracts between CMP and its wholesale customers, Kennebunk Light and Power District, Inhabitants of the Town of Madison (Madison Electric Works), and Fox Islands Electric Cooperative, Inc. Copies of the filing have been served on CMP's

above-named wholesale customers, and on the Maine Public Utilities Commission.

Comment date: November 20, 1986, in accordance with Standard Paragraph E at the end of this notice.

3. Consumers Power Co.

[Docket No. ER87-54-000]

Take notice that Consumers Power Company ("Consumers") on October 29, 1986, tendered for filing Consumers' August 20, 1986 Letter Agreement Modifying Grand Traverse Interconnection Facilities Agreement Between Consumers Power Company, Wolverine Power Supply Cooperative, Inc. and the City of Traverse City.

This letter agreement waives a requirement in the Facilities Agreement between Consumers Power Company, Wolverine Power Supply Cooperative, Inc. and the City of Traverse City dated September 1, 1981. That requirement was that a 138 kV circuit breaker replace a motor-operated disconnect switch when 138 kV additions were made to the Grand Traverse Substation. An additional 138/69 kV transformer will soon be installed, but that addition will not require the installation of a 138 kV circuit breaker at the Grand Traverse Substation. The agreement being filed has no impact on rates being charged under the Facilities Agreement.

Consumers states that copies of the filing were served on Wolverine Power Supply Cooperative, Inc., on the City of Traverse City, Michigan and on the Michigan Public Service Commission.

Comment date: November 20, 1986, in accordance with Standard Paragraph E at the end of this notice.

4. Duke Power Co.

[Docket No. ER87-38-000]

Take notice that Duke Power Company (Duke Power) tendered for filing on October 27, 1986, a supplement to the Company's Electric Power Contract with the Commissioners of Public Works of the City of Greenwood. Duke Power states that this contract is on file with the Commission and has been designated Duke Power Company Rate Schedule FERC No. 250.

Duke Power further states that the Company's contract supplement, made at the request of the customer and with agreement obtained from the customer, provides for the following additional delivery: Delivery Point No. 5 with a contracted demand of 7,000 kW.

Duke Power indicates that this supplement also includes an estimate of sales and revenue for twelve months immediately succeeding the effective date. Duke Power proposes an effective date of July 21, 1986.

According to Duke Power, copies of this filing were mailed to the Commissioners of Public Works of the City of Greenwood and The South Carolina Public Service Commission.

Comment date: November 20, 1986, in accordance with Standard Paragraph E at the end of this notice.

5. Montaup Electric Co.

[Docket No. ER87-58-000]

Take notice that on October 30, 1986, Montaup Electric Company tendered for filing its Purchased Capacity Adjustment Clause (PCAC) rate for the adjustment period, calendar-year 1987. The PCAC was established in FERC Docket No. ER85-106-002. Montaup Electric Company states that it has mailed copies of the rate filing to its wholesale customers, the Attorney General of Massachusetts, the Massachusetts Department of Public Utilities, the Attorney General of Rhode Island and the Rhode Island Division of Public Utilities and Carriers.

Comment date: November 20, 1986, in accordance with Standard Paragraph E at the end of this notice.

6. San Diego Gas & Electric Co.

[Docket No. ER87-59-000]

Take notice that on October 30, 1986, San Diego Gas & Electric Company (SDG&E) tendered for filing the Interchange Agreement between SDG&E and Deseret Generation & Transmission Co-operative (Deseret).

The agreement provides for the terms and conditions of interchange between the two parties.

SDG&E requests Waiver of the Commission's prior notice requirements and an effective date of November 1, 1986, for this agreement.

Copies of this filing were served upon the Public Utilities Commission of the State of California and Deseret.

Comment date: November 20, 1986, in accordance with Standard Paragraph E at the end of this notice.

7. Southern Company Services, Inc.

[Docket No. ER87-61-000]

Take notice that on October 31, 1986, Southern Company Service, Inc. on behalf of Alabama Power Company, Georgia Power Company, Gulf Power Company and Mississippi Power Company ("Southern Companies"), tendered for filing a rate schedule change to Service Schedule E to an interchange contract between Southern Companies and the City of Tallahassee, Florida. The rate schedule change provides for a decrease (from 16% to 15%) in the return on common equity component of the formulary rate incorporated in the interchange contract.

Comment date: November 20, 1986, in accordance with Standard Paragraph E at the end of this notice.

8. The Washington Water Power Co.

[Docket No. ER87-57-000]

Take notice that The Washington Water Power Company ("Washington") on October 30, 1986, tendered for filing, as an initial rate schedule, the Settlement Exchange Agreement between the United States of America, Department of Energy, acting by and through the Bonneville Power Administration ("Bonneville") and The Washington Water Power Company, executed September 17, 1985.

The Agreement provides for the exchange of power and energy which is expected to commence on January 1, 1987.

Washington requests an effective date of January 1, 1987, the date service is expected to commence under the Agreement.

A copy of the filing was mailed to Bonneville.

Comment date: November 20, 1986, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Kenneth F. Plumb,

Secretary.

[FR Doc. 86-25872 Filed 11-14-86; 8:45 am]

BILLING CODE 6717-01-M

Office of Hearings and Appeals

Crude Oil Overcharges; Proposed Supplemental Order

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Proposed supplemental order.

SUMMARY: This determination tentatively establishes procedures to permit claimants who allege injury as a result of certain crude oil overcharges to file refund applications. The funds referred to in this determination were remitted to the DOE, in order to settle alleged crude oil pricing violations, by Brownlie, Wallace, Armstrong and Bander, Inc., Cordele Operating Company, H.H. Gungoll & Associates, and Juniper Petroleum Corporation.

DATES: Comments must be filed in duplicate within 30 days of publication of this notice in the **Federal Register.**

ADDRESS: Comments should be addressed to: Office of Hearings and Appeals, Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All comments should display a reference to Case Nos. KFX–0127 through KFX–0130.

FOR FURTHER INFORMATION CONTACT: Thomas O. Mann, Deputy Director, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–2383.

SUPPLEMENTARY INFORMATION: Notice is hereby given of the issuance of the Proposed Supplemental Order set out below. The Proposed Supplemental Order sets forth the procedures that the DOE has tentatively formulated to distribute monies obtained from Brownlie, Wallace, Armstrong and Bander, Inc., Cordele Operating Company, H.H Gungoll & Associates, and Juniper Petroleum Corporation. These firms remittted monies to the DOE to settle possible pricing violations with respect to their sales of crude oil. The firms' payments are being held in an interest-bearing escrow account pending distribution by the DOE.

These funds will be distributed in accordance with the DOE's Modified Statement of Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986). Under the Modified Policy, crude oil overcharge monies are divided among the states, the federal government, and eligible purchasers of crude oil and refined products.

Eighty percent of the funds remitted to the DOE in these four cases has already been disbursed to the states and federal government pursuant to an August 4, 1986 Order of the OHA. At this time we propose procedures to permit claimants who allege injury as a result of crude oil overcharges to file refund applications for the remaining 20 percent portion of the funds. Under the plan we are proposing, purchasers of petroleum products must file an application for refund to be considered for the crude oil monies involved in these cases. Refunds to eligible purchasers would be based on the number of gallons of refined products which they purchased and the extent to which they can demonstrate injury.

Applications for refund should not be filed at this time. Appropriate public notice will be given when the submission of claims is authorized.

Any member of the public may submit written comments regarding the proposed refund procedures. Commenting parties are requested to submit two copies of their comments. Comments must be submitted within 30 days of publication of this notice in the **Federal Register** and should be sent to the address set forth at the beginning of this notice. All comments received will be available for public inspection between the hours of 1:00 p.m. and 5:00 p.m., Monday through Friday, except federal holidays, in the Public Reference Room of the Office of Hearings and Appeals, located in Room 1E–234, 1000 Independence Avenue SW., Washington, DC 20585.

Dated: November 7, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

Proposed Decision and Order of the Department of Energy

Supplemental Order

November 17, 1986.

Names of Cases: Brownlie, Wallace, Armstrong and Bander, Inc., Cordele Operating Company, H.H. Gungoll & Associates, Juniper Petroleum Corporation.

Dates of Filing: October 29, 1986.

Case Numbers: KFX–0127, KFX–0128, KFX–0129, and KFX–0130.

On January 21, 1986, the Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) issued two Decisions and Orders concerning distribution of alleged crude oil overcharge funds remited to the DOE by Brownlie, Wallace, Armstrong and Bander, Inc. (Brownlie), Cordele Operating Company (Cordele), H.H. Gungoll & Associates (Gungoll), and Juniper Petroleum Corporation (Juniper). *Brownlie, Wallace, Armstrong and Bander, Inc.*, 13 DOE ¶ 85,382 (1986); *Juniper Petroleum Corp.*, 13 DOE ¶ 85,383 (1986). The OHA concluded that the funds in those cases, totalling approximately $2,480,000, should be distributed in accordance with the then-current Department policy concerning crude oil overcharges. Since the policy in effect at that time did not authorize the submission of refund claims, the *Brownlie* and *Juniper* Decisions did not establish claims procedures for the funds involved. However, the Department's restitutionary policy for crude oil overcharges was modified six months after we issued those Decisions. Therefore, we are issuing this Proposed Supplemental Order to establish tentative claims procedures that comply with the modified policy for the Brownlie, Cordele, Gungoll and Juniper crude oil monies.

On July 28, 1986, as a result of a Settlement Agreement approved by the United States District Court for the District of Kansas in *The Department of Energy Stripper Well Litigation*, the DOE modified its policy of restitution concerning crude oil overcharges. 51 FR 27899 (August 4, 1986) (the Modified Policy). Under the Modified Policy, crude oil overcharge monies are divided among the states, the federal government, and eligible purchasers of crude oil and refined products. On August 8, 1986, the OHA announced its intention to follow the Modified Policy. *Notice of Order Implementing Modified Statement of Restitutionary Policy Concerning Crude Oil Overcharges*, 51 FR 29689 (August 20, 1986).[1]

On August 4, 1986, pursuant to Paragraph IV.B.7 of the Settlement Agreement, the OHA ordered disbursed to the state and Federal governments over $104 million of alleged crude oil overcharges remitted to the DOE and maintained in the DOE Deposit Fund Escrow Account. *Stripper Well Exemption Litigation*, 14 DOE ¶ 85,382 (1986). Eighty percent of the net equity from 63 subaccounts, including those accounts established with the funds remitted by Brownlie, Cordele, Gungoll and Juniper, was disbursed in this manner. Fifty-one million dollars was disbursed to State governments, and $53 million was deposited in the account of the federal government.

Refund Procedures

Under the Modified Policy, claimants who allege injury as a result of crude oil overcharges may file claims. The OHA may reserve up to 20 percent of crude oil overcharge funds to satisfy successful claims. *Mountain Fuel Supply Company*, 14 DOE ¶ 85,475 (1986) (Mountain Fuel). In these cases, we have concluded that the full 20 percent should be reserved initially in order to ensure that sufficient funds will be available for refunds to injured persons. The amount of the reserve may be adjusted later if circumstances warrant such action. The 80 percent portion of the crude oil funds which is not initially reserved for direct restitution, as well as any portion of the

[1] The OHA is evaluating comments to that notice.

reserve which is not distributed, will be divided between the States and the Federal government for indirect restitutionary purposes. Since 80 percent of the funds involved in these four cases has already been distributed to the state and federal governments in the August 4, 1986 *Stripper Well Exemption Litigation* decision, we need only establish procedures to permit injured claimants to file refund applications for portions of the funds reserved.

In order to receive a refund from the crude oil funds involved in this Decision, we propose that a claimant will be required to file an application for refund. The application should contain: (1) The name or names of the applicant's business and a short description of the applicant's use of petroleum products; (2) a statement identifying the petroleum products which the applicant purshased during the period of crude oil price controls (August 19, 1973 through January 27, 1981), the number of gallons of each product purchased, and the total number of gallons on which the applicant bases its claim; (3) a description of the method by which the applicant determined its purchase volumes, and a description of its method of estimation if the applicant used estimates to determine its purchase volumes; (4) a showing that the applicant was injured by the alleged overcharges; and (5) a statement that neither the applicant, its parents, subsidiaries, affiliates, successors nor assigns has waived any right it may have to receive a refund in this case.[2]

The OHA will evaluate applications for refund from purchasers of refined petroleum products using methods similar to those which the OHA has used to evaluate claims based on refined product overcharges pursuant to 10 CFR Part 205, Subpart V. *Mountain Fuel*, 14 DOE at 88,869. As in non-crude oil cases, applicants will be required to document their purchase volumes and to prove that they were injured by the alleged overcharges (i.e., that they did not pass the overcharges on to their own customers). *Id.* However, end-users of petroleum products whose businesses are unrelated to the petroleum industry will be presumed to be injured. *Greater Richmond Transit Company*, 15 DOE ¶ _____, No. RF272–1 (October 10, 1986). The standards for showing injury which the OHA has developed in analyzing and deciding non-crude oil claims will also apply to claims based on crude oil overcharges. *See, e.g., Dorchester Gas Corp.*, 14 DOE ¶ 85,240 (1986).

Refunds will be calculated on the basis of a per gallon refund amount derived by dividing the crude oil overcharge monies received in these four cases ($2,480,856.90) by the total U.S. consumption of petroleum products during the period of price control.[3] *Id.* at 88,867–68. The volumetric refund amount in each of these four proceedings is set out in the footnote.[4] The total refund amount is $.0000012275 per gallon. Successful applicants will also receive their proportion of accrued interest.

Before taking the action we have proposed in this Decision, we intend to publicize our proposal and solicit comments on it. Comments regarding the tentative distribution process set forth in this Proposed Decision should be filed with the OHA within 30 days of publication in the **Federal Register**.

It Is Therefore Ordered That: The crude oil refund amount remitted to the Department of Energy by the following companies will be distributed in accordance with the foregoing Decision: Brownlie, Wallace, Armstrong and Bander, Inc., pursuant to a consent order finalized on August 28, 1984; Cordele Operating Company, pursuant to a consent order finalized on May 31, 1984; H.H. Gungoll & Associates, pursuant to a Remedial Order issued on April 5, 1984; and Juniper Petroleum Corporation, pursuant to a July 17, 1984 Order of the United States District Court for the District of Delaware.

[FR Doc. 86–25817 Filed 11–14–86; 8:45 am]

BILLING CODE 6450–01–M

[2] Pursuant to the Settlement Agreement, escrow funds were established for refiners, resellers, retailers, agricultural cooperatives, airlines, privately owned utilities, surface transporters, and rail and water transporters. Firms which claim refunds for crude oil overcharges from those escrow funds waive their rights to receive funds from Subpart V cases based on alleged crude oil overcharges.

[3] It is estimated that 2,020,997,335,000 gallons of petroleum products were consumed in the United States during the period August 1973 through January 1981. *Mountain Fuel*, 14 DOE at 88,868 n.4 (1986).

* Name of firm	Principal amount remitted to DOE	Volumetric refund
Brownlie, Wallace, Armstrong & Bander, Inc.	$468,750.00	.0000002319
Cordele Operating Company	1,300,000.00	.0000006432
H.H. Gungoll & Associates	143,980.00	.0000000712
Juniper Petroleum Corp.	568,126.09	.0000002811

Special Refund Procedures

AGENCY: Office of Hearings and Appeals, DOE.

ACTION: Implementation of special refund procedures.

SUMMARY: The Office of Hearings and Appeals (OHA) of the Department of Energy (DOE) announces the procedures for disbursement of $180,000 (plus accrued interest) obtained from MAPCO, Inc., Case No. HEF–0577. The OHA has determined that the funds will be distributed in accordance with the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986).

DATE AND ADDRESS: Applications for refund must be filed by October 1, 1987 and should be addressed to: Subpart V Crude Oil Refunds, Office of Hearings and Appeals, U.S. Department of Energy, 1000 Independence Avenue SW., Washington, DC 20585. All applications should be printed or typed.

FOR FURTHER INFORMATION CONTACT: Thomas Wieker, Deputy Director or Irene Bleiweiss, Attorney, Office of Hearings and Appeals, 1000 Independence Avenue SW., Washington, DC 20585, (202) 252–2390 (Wieker) or (202) 252–2400 (Bleiweiss).

SUPPLEMENTARY INFORMATION: In accordance with § 205.282(c) of the procedural regulations of the Department of Energy (DOE), notice is hereby given to the issuance of the Decision and Order set out below. The Decision and Order sets forth the procedures that the DOE has formulated to distribute monies obtained from MAPCO, Inc. (MAPCO). MAPCO remitted monies to the DOE to settle possible pricing violations with respect to its sales of crude oil. The firm's payment is being held in an interest-bearing escrow account pending distribution by the DOE.

The DOE has decided that distribution of the monies received from MAPCO will be governed by the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases, 51 FR 27899 (August 4, 1986). That policy states that crude oil overcharge monies will be divided among the states, the federal government, and eligible purchasers of refined products.

Refunds to the states will be distributed in proportion to each state's consumption of petroleum products. Refunds to eligible purchasers will be based on the number of gallons of crude oil or refined products which they purchased and the extent to which they can demonstrate injury.

Applications for refund must be filed by October 1, 1987 and should be sent to the address set forth at the beginning of this notice. The information which claimants should include in their application is explained in Section III of the Decision and Order.

Dated: November 7, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

November 7, 1986.

Decision and Order of the Department of Energy

Implementation of Special Refund Procedures

Name of Case MAPCO, Inc.
Date of Filing: April 3, 1985
Case Number: HEF-0577.

Under the procedural regulations of the Department of Energy (DOE), the Economic Regulatory Administration (ERA) may request that the Office of Hearings and Appeals (OHA) formulate and implement special refund procedures. *See* CFR Part 205, Subpart V. Such procedures enable the DOE to refund monies to those injured by alleged violations of the DOE pricing regulations. On April 3, 1985, the ERA requested that the OHA formulate such procedures to distribute $180,000 which the DOE received pursuant to a settlement with MAPCO, Inc. (MAPCO).

This Decision establishes the procedures by which the OHA will distribute the MAPCO settlement fund. The requirements which an applicant must meet in order to be eligible for a refund appear in Section IIII of this Decision.

I. Background

During the period crude oil price controls, MAPCO was the operator of two crude oil producing properties located in Oklahoma.[1] Therefore, MAPCO was a "producer" of domestic crude oil and was subject to the provisions of the DOE's Mandatory Petroleum Price Regulations. The ERA conducted an audit of MAPCO's activities and determined that MAPCO violated the regulations and overcharged its customers by improperly classifying crude oil as "stripper well" crude oil. Therefore, on June 24, 1981, the ERA issued a Proposed Remedial Order to MAPCO requiring the firm to refund its alleged overcharges. MAPCO maintained that it did not violate the regulations, and contested the ERA's determination.

The DOE and MAPCO settled their dispute on August 1, 1984 when they entered into a Consent Order. Under the terms of the settlement, MAPCO paid $180,000 to the DOE to resolve all claims by DOE for the period September 1973 through January 27, 1981 with respect to MAPCO's pricing practices at the Sarasota 1-B #6 and Yarhola properties. MAPCO's payment is being held in an interest-bearing escrow account pending distribution.

On September 19, 1986 the OHA issued a Proposed Decision and Order (PD&O) proposing to distribute the MAPCO monies in accordance with the DOE's Statement of Modified Restitutionary Policy in Crude Oil Cases. *See* 51 FR 27899 (August 4, 1986) hereinafter "the DOE Policy"). Under the DOE Policy, crude oil overcharge monies are to be divided among the States, the federal government, and eligible purchasers of crude oil and refined petroleum products. The OHA proposed to reserve 20 percent of the MAPCO monies for direct restitution to injured purchasers of refined petroleum products. Eligible claimants would receive a refund based on a per gallon refund amount. To calculate the per gallon refund amount, we proposed to take the crude oil overcharge monies received and divide by the total U.S. Consumption of Petroleum Products during the period of crude oil price control. The OHA published the PD&O in the **Federal Register** and solicited comments to the proposed distribution procedures. 51 FR 35283 (October 2, 1986).

II. Comments to the Proposed Decision

Philip Kalodner, Esq. filed in the MAPCO proceeding as counsel for potential claimants. Basically, Mr. Kalodner supports the procedures which we proposed in the MAPCO PD&O. For example, Mr. Kalodner states that the formula the OHA proposed to use to determine a per gallon refund amount is acceptable to him. Mr. Kalodner agrees with the OHA's proposal to hold a 20 percent reserve to make direct restitution. He also supports the OHA's proposal to model MAPCO refund procedures on procedures established in refined products cases.

Mr. Kalodner's comments also make suggestions about our review of applications for refund. First, Mr. Kalodner suggests that end-users of petroleum products who apply for MAPCO crude oil monies should be presumed injured. We agree. In recent decisions we stated that end-users of petroleum products whose businesses are not related to the petroleum industry need not prove injury to receive a refund based on crude oil overcharges. *E.g. Greater Richmond Transit Co.*, 15 DOE ¶ 85,028 at 88,050 (1986) (*Greater Richmond*). Our reasoning for establishing this presumption of injury appears in those decisions.

Mr. Kalodner also comments on the possibility that the OHA may set a minimum claim amount in crude oil refund cases. If the OHA were to do so, he suggersts that the OHA recognize a claimant's possible recovery in all crude oil cases. The OHA understands that the recovery of any one firm would be quite small from a fund the size of the MAPCO settlement. However, the firm's recovery from the MAPCO fund and additional crude oil overcharge funds may be significant. The OHA has addressed this situation in its consideration of recent refund applications. *E.g. Fort Wayne Public Transportation Corp.*, 15 DOE ¶ 85,039 (1986). In such cases the OHA considered applicants for refunds smaller than the $15 minimum the OHA often sets in products cases. The OHA approved the claimants' purchase volumes but will not issue a refund check to the claimants until they are approved for additional refunds based on crude oil overcharges.

Finally, Mr. Kalodner suggests that once a claimant's purchase volumes are approved, its application should be deemed a continuing claim against all crude oil funds, without a requirement that the claimant file additonal information. At this early stage of our consideration of crude oil refund applications pursuant to Subpart V, we cannot accept Mr. Kalodner's suggestion. We do not yet know whether additional information may be necessary in order to consider a claimant for a particular fund. However, until we know whether additional information is necessary, we will notify claimants whose volumes are approved of any additional information needed in order to be considered for additional refunds.

III. Refund Procedures

After considering the comments received, we conclude that the monies received from MAPCO should be distributed in accordance with the DOE Policy.

A. Refunds to Eligible Purchasers. The DOE Policy provides that claimants who allege injury as a result of crude oil overcharges may file claims. The OHA will reserve 20 percent of the MAPCO settlement fund for direct restitution to such claimants who prove injury or who are presumed injured. The funds in this reserve will be distributed in accordance with the existing DOE refund regulations codified at 10 CFR Part 205, Subpart V. Claimants who purchased refined petroleum products will receive a refund on the basis of a per gallon refund amount. This figure will be derived by taking the crude oil overcharge monies received and dividing by the total U.S. Consumption

[1] These properties were known as the Sarasota 1-B #6 property and the Yarhola property.

of Petroleum Products during the period of price control. *Id.* Using this method, the refund amount in this case is $.000000089 per gallon.[2]

In order to receive a refund from the MAPCO settlement fund, a petroleum purchaser must file an application for refund. The application, which may be in the form of a letter, should contain:

(1) A heading at the top stating "Application for Refund";

(2) A short description of the applicant's business and use of petroleum products. If the applicant's business operated under more than one name the applicant should list these names;

(3) A statement identifying the petroleum products which the applicant purchased during the period of crude oil price controls (August 19, 1973 through January 27, 1981), the number of gallons of each product purchased, and the total number of gallons on which the applicant bases its claim;

(4) A description of the method by which the applicant determined its purchase volumes. If the applicant used estimates it should describe its method of estimation;

(5) A statement that neither the applicant, its parents, subsidiaries, affiliates, successors nor assigns has waived any right it may have to receive a refund in this case; [3]

(6) If the applicant is not an end-user whose business is unrelated to the petroleum industry, a showing that the applicant was injured by the alleged overcharges (i.e., that they did not pass the overcharges on to their own customers). The standards for showing injury which the OHA has developed in analyzing and deciding non-crude oil claims will also apply to claims based on crude oil overcharges. *See, e.g., Dorcester Gas Corp.*, 14 DOE ¶85,240 (1986). End-users of petroleum products whose businesses and unrelated to the petroleum industry will be presumed to be injured. *Greater Richmond*, 15 DOE at 88,050.

B. Refunds to the State and Federal Governments. In accordance with the DOE Policy, the 80 percent of the MAPCO settlement fund not reserved for direct restitution, as well as any portion of the 20 percent reserve which is not distributed, will be divided between the states and the federal government for indirect restitutionary purposes. Half of these funds will go to the states, in proportion to each state's consumption of petroleum products, and the other half will go to the federal government.[4] *See* "Calculation of Ratios For Distribution to States and Territories," *Final Settlement Agreement*, Exhibit H, *In Re Department of Energy Stripper Well Exemption Litigation*, M.D.L. 378, (D. Kan. 1986) (*reprinted at* 6 Fed. Energy Guidelines, ¶ 90,509 at 90,687).

It Is Therefore Ordered That:

(1) Applications for Refund from the funds remitted to the Department of Energy by MAPCO, Inc. pursuant to a Consent Order signed on August 1, 1986 may now be filed. Twenty percent of the funds, plus interest, shall be reserved for satisfying such claims. The dollar amount of this reserve shall be $39,653.90 plus interest from November 1, 1986 through the date of disbursement.[5]

(2) All applications must be filed no later than October 1, 1987.

(3) The remaining 80 percent of funds ($158,615.60) plus interest from November 1, 1986 through the date of disbursement shall be distributed to state and the federal governments in the manner set out in paragraphs (4) and (5) below.

(4) The Director of Special Accounts and Payroll, Office of Departmental Accounting and Financial Systems Development, Office of the Controller, Department of Energy, shall transfer $39,653.90 plus interest from November 1, 1986 through the date of disbursement into a subaccount denominated the "Crude Tracking-State" subaccount, No. 999DOE003WO.

(5) The Director of Special Accounts and Payroll shall transfer $118,961.70 plus interest from November 1, 1986 through the date of disbursement into a subaccount denominated the "Crude Tracking-Federal" subaccount, No. 999DOE002WO.

(6) This is a final order of the Department of Energy.

Dated: November 7, 1986.

George B. Breznay,

Director, Office of Hearings and Appeals.

[FR Doc. 86-25818 Filed 11-14-86; 8:45 am]

BILLING CODE 6450-01-M

[2] We derived this figure by dividing the monies received from MAPCO ($180,000) by an estimate of the number of gallons of petroleum products consumed in the United States during the period August 1973 through January 1981 (2,020,997,335,000). *Cf.* "Petroleum Consumption for OECD Contries," *Monthly Energy Review*, Energy Information Administration, April 1986, page 109. Successful applicants will also receive their proportion of interest accrued.

[3] Pursuant to the Settlement Agreement in *In Re Department of Energy Stripper Well Litigation*, M.D.L. 378 (D. Kan.) escrow funds were established for refiners, resellers, retailers, agricultural cooperatives, airlines, surface transporters, and rail and water transporters. Firms which claim refunds for crude oil overcharges from those escrow funds waive their rights to receive refunds from Subpart V cases based on alleged crude oil overcharges.

[4] In this case the actual distribution will reflect a ratio of 25 percent to the state governments and 75 percent to the federal government. Under the terms of the Stripper Well Settlement Agreement, the states received an advance of $200 million from funds which would otherwise have been disbursed to the DOE. In order to reimburse the DOE for this advance, the Settlement Agreement provides that for amounts which the OHA transfers to the state and federal governments in excess of $100 million, the DOE shall receive 75 percent and the states shall receive 25 percent. *Settlement Agreement*, Paragraph II.B.3.c.ii. This arrangement shall continue until the OHA has distributed $400 million under the 75/25 arrangement.

[5] On October 31, 1986 the monies in the MAPCO settlement fund, including interest accrued through that date, totaled $198,269.50.

ENVIRONMENTAL PROTECTION AGENCY

[OPPE-FRL-3113-2]

Advisory Committee Negotiating the Hazardous Waste Injection Restrictions Rulemaking; Open Meeting

As required by section 9(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), we are giving notice of an open, two-day meeting of the Advisory Committee negotiating hazardous waste injection restrictions.

The meeting will be held on Tuesday and Wednesday, December 2 and 3, 1986, at The Conservation Foundation, 1255 23rd Street, NW., First Floor Library, Washington, DC. On Tuesday, the meeting will start at 9:30 a.m. and will run until 5:00 p.m. On Wednesday, the meeting will start at 9:30 a.m. and will run until 4:00 p.m. The purpose of the meeting is to continue examining regulatory options and working on the substantive issues which the Committee has identified for resolution.

If interested in receiving more information, please contact Kathy Tyson at (202) 382-5352.

Dated: November 7, 1986.

John M. Campbell, Jr.,

Acting Assistant Administrator for Policy, Planning and Evaluation.

[FR Doc. 86-25836 Filed 11-14-86; 8:45 am]

BILLING CODE 6560-50-M

[SAB FRL-3112-9]

Science Advisory Board; Integrated Environmental Management Subcommittee; Open Meeting

Under Pub. L. 92-463, notice is hereby given of a two day meeting of the Integrated Environmental Management Subcommittee of the Science Advisory Board. The meeting will be held on December 4-5, 1986 at the U.S.

Environmental Protection Agency, North Conference Center, Room #3, 401 M Street SW., Washington, DC 20460. The meeting will begin at 9:00 a.m. each day and will adjourn at approximately 3:00 p.m. on December 5.

The major purpose of the meeting is to provide the Subcommittee with the opportunity to further discuss the Baltimore and Santa Clara Valley integrated environmental management studies and to enable the Subcommittee to draft sections of its final report.

The meeting is open to the public. Any member of the public wishing to attend or obtain information about the meeting should notify Dr. Terry F. Yosie, Director, Science Advisory Board or Mrs. Joanna Foellmer located 401 M Street SW., Washington, DC or call (202) 382–4126 by close of business November 28, 1986.

Dated: November 7, 1986.

Terry F. Yosie,

Director, Science Advisory Board.

[FR Doc. 86–25846 Filed 11–14–86; 8:45 am]

BILLING CODE 6560–50–M

FEDERAL EMERGENCY MANAGEMENT AGENCY

[FEMA–779–DR]

Missouri; Amendment to Notice of a Major-Disaster Declaration

AGENCY: Federal Emergency Management Agency.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster for the State of Missouri (FEMA–779–DR), dated October 14, 1986, and related determinations.

DATED: November 6, 1986.

FOR FURTHER INFORMATION CONTACT: Sewall H.E. Johnson, Disaster Assistance Programs, Federal Emergency Management Agency, Washington, DC. 20472, (202) 646–3616.

Notice:

The notice of a major disaster for the State of Missouri, dated October 14, 1986, is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of October 14, 1986:

The Counties of Bates, Benton, Cass, Clark, Henry, Johnson, Lewis, Miller, Morgan, Pettis, Ralls, St. Clair, Scotland, Shelby, Vernon, and Warren for Public Assistance.

The City of Cedar City and the Town of Mokane for Public Assistance.

The City of Hermann and Roark Township in Gasconade County for Public Assistance.

Loutre Township in Montgomery County for Public Assistance.

(Catalog of Federal Domestic Assistance No. 83.516, Disaster Assistance)

Dave McLoughlin,

Deputy Associate Director, State and Local Programs and Support, Federal Emergency Management Agency.

[FR Doc. 86–25919 Filed 11–14–86; 8:45 am]

BILLING CODE 6718–02–M

FEDERAL MARITIME COMMISSION

Agreement Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street NW., Room 10325. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC. 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 217–010051–011.

Title: Mediterranean Force Majeure Agreement.

Parties:

Compania Trasatlantica Espanola
Costa Container Line
Farrell Lines, Inc.
Italia Di Navigazione, S.p.A.
Jugolinija
Lykes Bros. Steamship Co., Inc.
Sea-Land Service, Inc.
Zim Israel Navigation Co., Inc.

Synopsis: The proposed amendment would delete Med-America Express Service as a party to the agreement.

By Order of the Federal Maritime Commission.

Dated: November 12, 1986.

Joseph C. Polking,

Secretary.

[FR Doc. 86–25834 Filed 11–14–86; 8:45 am]

BILLING CODE 6730–01–M

[Foreign Trade Circular Letter No. 86–1]

Conferences and Rate Agreements Among Common Carriers by Water in the Outbound U.S. Foreign Commerce; Regarding Compensation of Ocean Freight Forwarders

November 6, 1986.

On October 22, 1986, the Tax Reform Act of 1986 was signed into law by the President. Section 1888(8) of this Act makes several significant changes to the method by which conferences or groups of two or more ocean common carriers may compensate ocean freight forwarders. Conferences must now provide their members with a right of independent action on compensation paid an ocean freight forwarder who is also a customs broker, and may not limit compensation paid to an ocean freight forwarder who is also a customs broker to less than 1.25 percent of the "the aggregate of all rates and charges applicable under the tariff assessed against the cargo."

It is our interpretation that this particular provision of the Tax Reform Act became effective upon signing. Conference agreements and tariffs should, therefore, be brought into compliance with these requirements forthwith. In the meantime, it is our opinion that the statute takes precedence over any agreement provisions which may be to the contrary.

Any necessary tariff amendment filed with the Commission should be sent to the attention of Ms. Mamie Black.

John E. Cograve,

Managing Director.

[FR Doc. 86–25833 Filed 11–14–86; 8:45 am]

BILLING CODE 6730–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Statement of Organization, Functions, and Delegations of Authority; Family Support Administration

Pursuant to my authority under Reorganization Plan No. 1 of 1953, I hereby delegate to the Administrator of the Family Support Administration as published at 51 FR 11641, April 4, 1986, all authorities that were previously delegated to: The Commissioner of Social Security pertaining to the Office of Family Assistance and the Office of Refugee Resettlement; the Assistant Secretary for Human Development Services pertaining to the Work Incentive Program; and to the Director, Office of Community Services.

The Office of Child Support Enforcement is a separate organizational unit and the Administrator of the Family Support Administration serves as its Director, therefore all delegations from the Secretary of the Department of Health and Human Services to the Director, Office of Child Support Enforcement shall remain in effect.

As a result of statutory amendments for the Aid to Families with Dependent Children, Adult Assistance, and U.S. Repatriation Programs, the authorities contained in Sections I–XI, XIII, XIV, XXII, and XXIII published in the *Federal Register* on August 1, 1978, 43 33823–27, are replaced by the following revised authorities:

A. Aid to Families with Dependent Children (AFDC) Adult Assistance (AA) and U.S. Repatriation Programs

These revised authorities for the programs of AFDC, AA, and assistance to certain U.S. citizens returned from foreign countries (U.S. Repatriation Program) replace the authorities contained in Sections I–XI, XIII, XIV, XXII, and XXIII published in the *Federal Register* on August 1, 1978, (Vol. 43, No. 148 Doc. 78–21231).

1. Authority to apporve/disapprove State plans and State plan amendments for the AFDC program (title IV–A of the Social Security Act, as amended (the Act)), and the AA programs (Titles I, X, XIV, and XVI of the Act), under sections 2, 402, 1002, 1402, and, 1602 of the Act.

2. Authority to approve/disapprove expenditures for repair to homes of AFDC/AA recipients, under section 1119 of the Act.

3. Authority to approve/disapprove AFDC/AA grant awards to States, estimate quarterly AFDC/AA amounts payable to States, determine proper reimbursement to States for AFDC/AA administrative expenses, and allow/disallow Federal financial participation in State AFDC/AA expenditures, under sections 3,4, 403, 404, 1003, 1004, 1403, 1404, 1603, and 1604 of the Act.

4. Authority to waive compliance with State plan requirements, for the period necessary, to enable States to carry out AFDC/AA experimental, pilot, and demonstration projects under section 1115 of the Act.

5. Authority, under section 1102 of the Act, to make determinations on State appeals concerning audit questions or recommendations by the Department of Health and Human Services (HHS) Audit Agency which involve States AFDC/AA practices reviewed under titles I, IV–A, X, XIV, and XVI of the Act.

6. Authority to develop plans, make arrangements, approve/disapprove payments, determine and request repayment, as appropriate, and perform all other administrative functions, except promulgation of regulations, necessary to effectuate the program of temporary assistance to certain U.S. citizens and their dependents repatriated from foreign countries, under section 1113 of the Act.

7. Authority to approve/disapprove AFDC/AA cooperative research and demonstration projects under section 1110 of the Act, and AFDC/AA experimental, pilot, and demonstration projects under section 1115 of the Act.

8. Authority to approve/disapprove applications from States for Federal financial participation in the design of, and acquisition of equipment for, AFDC/AA automated data processing information systems, under sections 402(e), 403(a) (3) (b), and 1102 of the Act.

9. Authority to develop plans, make arrangements, approve/disapprove payments, determine and request repayment, as appropriate, and perform all other administrative functions, except promulgation of regulations, necessary to effectuate the program of hospitalization and other care, treatment, and assistance for certain U.S. nationals repatriated from foreign countries because of mental illness or insanity, under Pub. L. 86–571.

10. Authority to approve/disapprove alternate AFDC/AA quality control case review workload completion plans from States, under 45 Code of Federal Regulations (CFR) 205.40, and authority to request other data and reports from States on AFDC/AA quality control systems, under 45 CFR 205.40.

11. Authority to waive State plan requirements that certain categories of AFDC recipients must report to States on a monthly basis, under 45 CFR 233.36.

12. Authority, under 45 CFR 233.38, to waive monthly reporting and budgeting requirements so that State AFDC reporting is compatible with the monthly and budget reporting is compatible with the monthly and budget reporting requirements of section 402 of the Act and the Food Stamp Act of 1977.

13. Authority to establish a State's AFDC/AA error rate on the best available data, where the State has failed to cooperate in providing appropriate information upon which an error rate can be based, and authority to assess the States for costs incurred in establishing such error rate, under section 3(a), 403 (a)(1)(3), 1003(a), and 1603(a) of the Act.

14. Authority, under section 1116 (a) and (b) of the Act, to hold hearings and make decisions on State requests for reconsideration of disapproved State AFDC/AA plans or plan amendments, under Titles I, IV–A, X, XIV, and XVI of the act.

Conditions

(a) Authorities 1–13 may be redelegated by the Administrator of the Family Support Administration as he may deem appropriate, but authority 14 may not be further redelegated.

(b) Where all or any part of an experimental, pilot, research or demonstration project is wholly financed with Federal funds made available under section 1110 or 1115 of the Act, without any State, local, or other non-Federal financial participation, that project must be approved by the Secretary of Health and Human Services.

(c) The Administrator of the Family Support Administration retains final authority to allow/disallow Federal financial participation in State expenditures questioned by the General Accounting Office, the HHS Audit Agency, or Family Support Administration officials.

B. Low Income Home Energy Assistance Program

Authorities under the Omnibus Budget Reconciliation Act of 1981 (Pub. L. 97–35) concerning the Low-Income Home Energy Assistance Program authorized by sections 2601–2610 of the Act. These authorities include: reviewing and approving plans submitted by States, territories and Indian tribal organizations; approving and issuing grants under approved plans, monitoring and gathering data on program operations; and performing other related administrative and operational functions in support of the above program.

Conditions

(a) This delegation excludes the authority to take final action to withhold funds from States and to act under the non-discrimination provisions of the Act.

(b) The Administrator of the Family Support Administration may redelegate these authorities to an official who reports directly to him and that official may redelegate no further than to an official who reports directly to him.

C. Work Incentive Demonstration Program

Authorities under section 445, title IV, Part C, of the Social Security Act, as amended, for the Work Incentive Demonstration Programs:

1. Authority to approve or disapprove applications and plans submitted by States for participation in Work Incentive Demonstration Programs under section 445.

2. Authority to review expenditures and make grant awards to the States for Work Incentive Demonstration Programs.

3. Authority to perform administrative functions relating to the implementation of Work Incentive Demonstration Programs, including authority to compile and publish statistical data and to monitor, evaluate and report on program performance.

Conditions

(a) The Administrator of the Family Support Administration may redelegate these authorities as he may deem appropriate.

D. Authority to make determinations on request for waivers of disallowances based on the AFDC quality control systems pursuant to the 1979 Michel Amendments, section 201 of the Labor-HEW Appropriation Bill for Fiscal Year 1980 (H.R. 4389) as referenced in the Continuing Resolution for Fiscal Year 1980 (section 101(g) of Pub. L. 96–123).

Authorities contained in section 156 of the Tax Equity and Fiscal Responsibility Act of 1982 (Pub. L. 97–248) amending the Social Security Act, limiting Federal financial participation in erroneous expenditures.

Conditions

(a) The Administrator of the Family Support Administration may not redelegate these authorities.

E. Authority to administer the provisions of section 402(a)(19)(G) of the Social Security Act (42 U.S.C. (a)(19)(G)), pertaining to grants to States and related services in support of the Work Incentive Program.

F. Authorities under the Omnibus Budget Reconciliation Act of 1981 to administer the provisions of sections 672–683 of the Act pertaining to the block grant, transition grant and discretionary grant programs and the authorities vested in the Director of the Office of Management and Budget (OMB) by section 682(e) of the Act and delegated to the Secretary of HHS by the Director, OMB by letter of September 5, 1981. These latter authorities relate to taking administrative actions necessary to close out programmatic activities of the Community Services Administration.

G. Authorities for the Cuban and Haitian Entrants Program under Executive Order Number 12341, January 21, 1982, sections 501 (a) and (b) of the Refugee Education Assistance Act.

H. Authority under section 8 U.S.C. 1522(e)(7)(A) to develop and implement alternative projects for refugees who have been in the United States less than thirty-six months, under which refugees are provided interim support, medical services, support services, and case management, as needed, in a manner that encourages self-sufficiency, reduces welfare dependency, and fosters greater coordination among the resettlement agencies and service providers.

These delegations do not include the authority to issue regulations or make reports to the Congress. This delegation is effective upon date of signature. In addition, I hereby affirm and ratify any actions taken by the Administrator of the Family Support Administration or other FSA officials with the Administrator's approval which, in effect, involved the exercise of these authorities prior to the effective date of this delegation.

Dated: October 29, 1986.

Otis R. Bowen,

Secretary.

[FR Doc. 86–25877 Filed 11–14–86; 8:45 am]

BILLING CODE 4190–11–M

Food and Drug Administration

Advisory Committees; Notice of Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

Meetings

The following advisory committee meetings are announced:

Anesthetic and Life Support Drugs Advisory Committee

Date, time, and place. December 1 and 2, 8:30 a.m., Wilson Hall, Bldg. 1, National Institutes of Health, 9000 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, December 1, 8:30 a.m. to 9:30 a.m., unless public participation does not last that long; open committee discussion, 9:30 a.m. to 4 p.m.; open committee discussion, December 2, 8:30 a.m. to 1:30 p.m.; Isaac F. Roubein, Center for Drugs and Biologics (HFN–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the field of anesthesiology and surgery.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Open committee discussion. On December 1, the Committee will discuss: (1) Versed (Midazolam) adverse experience; (2) spinal narcotics of longer duration; (3) identification of pharmacological needs to improve the practice of anesthesia; potential interaction of anesthetics with cardiovascular drugs; (4) guidelines for clinical investigation of local anethetics; and (5) unlabeled use of drugs in pediatric anethesia. On December 2, the committee will discuss: (1) Acquired Immune Deficiency Syndrome (AIDS) and its impact on anesthesia; (2) efficacy of epidural steroids in treatment of low back pain; (3) approaches to alter gastric fluid pH and/or volume before induction of anesthesia; and (4) use of 93 percent oxygen.

Arthritis Advisory Committee

Date, time, and place. December 1 and 2, 8:30 a.m., Conference Rooms D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of meeting and contact person. Open public hearing, December 1, 8:30 a.m. to 9:40 a.m., unless public participation does not last that long; open committee discussion, 9:40 a.m. to 5 p.m.; open committee discussion, December 2, 8:30 a.m. to 4:30 p.m.; David F. Hersey, Center for Drugs and Biologics (HFN–32), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4695.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in arthritis and related diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Open committee discussion. The committee will discuss: (1) Agranulocytosis and aplastic anemia associated with nonsteroidal anti-

flammatory drug (NSAID) therapy, (2) flank pain from NSAID's, and (3) gastrointestinal adverse drug reactions associated with NSAID therapy.

Gastrointestinal Advisory Committee

Date, time, and place. December 8 and 9, Lister Hill Auditorium, National Library of Medicine, Bldg. 38A, National Institutes of Health, 8600 Rockville Pike, Bethesda, MD.

Type of meeting and contact person. Open public hearing, December 8, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, December 8, 10 a.m. to 5 p.m.; open committee discussion, December 9, 9 a.m. to 12 m.; Joan C. Standaert, Center for Drugs and Biologics (HFN–110), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–443–4730.

General function of the committee. The committee reviews and evaluates available data on the safety and effectiveness of marketed and investigational prescription drugs for use in the treatment of gastrointestinal disorders and diseases.

Agenda—Open public hearing. Interested persons requesting to present data, information, or views, orally or in writing, on issues pending before the committee should communicate with the contact person.

Open committee discussion. The committee will discuss: (1) New drug application (NDA) 19–487, Loperamide for over-the-counter use for diarrhea and associated cramps, McNeil Consumer Products Co., (2) NDA 19–357, Ethanolamine oleate (Ethamolin) intravenous injection for treatment of bleeding esophageal varices; and (3) NDA 19–618, 5-Amino-Salicylic Acid, Mesalamine (Rowasa), a rectal suspension for ulcerative colitis.

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) an open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (Subpart C of 21 CFR Part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR Part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in the **Federal Register** notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session may ascertain from the contact person the approximate time of discussion.

A list of committee members and summary minutes of meetings may be requested from the Dockets Management Branch (HFA–305), Room 4–62), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under sections 10(a) (1) and (2) of the Federal Advisory Committee Act (Pub. L. 92–463, 86 Stat. 770–776 (5 U.S.C. App. I)), and FDA's regulations (21 CFR Part 14) on advisory committees.

Dated: November 7, 1986.

Ronald G. Chesemore,

Acting Associate Commissioner for Regulatory Affairs.

[FR Doc. 86–25816 Filed 11–14–86; 8:45 am]

BILLING CODE 4160–01–M

[Docket No. 86P–0404]

Canned Pacific Salmon Deviating From Identity Standard; Temporary Permit for Market Testing

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a temporary permit has been issued to Kelley-Clarke, Inc., to market test canned skinless and boneless chunk salmon packed in water. The purpose of the temporary permit is to allow the applicant to measure consumer acceptance of the food.

DATE: This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than February 17, 1987.

FOR FURTHER INFORMATION CONTACT: Nannie H. Rainey, Center for Food Safety and Applied Nutrition (HFF–210), Food and Drug Administration, 200 C Street, SW., Washington, DC 20204, 202–485–0101.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 130.17 concerning temporary permits to facilitate market testing of foods deviating from the requirements of the standards of identity promulgated under section 401 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 341), FDA is giving notice that a temporary permit has been issued to Kelley-Clarke, Inc., Seattle, WA 98124.

The permit covers limited interstate marketing tests of canned skinless and boneless chunk salmon packed in water. The test product deviates from the standard of identity for canned Pacific salmon (21 CFR 161.170) in three ways: (1) The form of pack is chunk, i.e., not less than 50 percent of the fill weight of the salmon is retained on a ½-inch mesh screen; (2) the skin and backbone, i.e., vertebrae and associated bones (neural spines and ventral ribs), are removed; and (3) water, in an amount not to exceed 10 percent of the water capacity of the can, will be used as packing medium and to aid in dispersion of salt. The test product meets all requirements of 21 CFR 161.170 with the exception of these deviations. The permit provides for the temporary marketing of 15,000 cases of test product containing twenty-four 6½ ounce cans each. The test product will be distributed throughout the continental United States.

The test product is to be manufactured at the Petersburg Fisheries plant located in Petersburg, AK 99833.

Each of the ingredients used in the food is stated on the label as required by the applicable sections of 21 CFR Part 101. This permit is effective for 15 months, beginning on the date the food is introduced or caused to be introduced into interstate commerce, but no later than February 17, 1987.

Dated: November 6, 1986.

Sanford A. Miller,

Director, Center for Food Safety and Applied Nutrition.

[FR Doc. 86-25815 Filed 11-14-86; 8:45 am]

BILLING CODE 4160-01-M

Public Health Service

National Committee on Vital and Health Statistics Subcommittee on Minority Health Statistics; Meeting

Pursuant to the Federal Advisory Act (Pub. L. 92-463), notice is hereby given that the National Committee on Vital and Health Statistics (NCVHS) Subcommittee on Minority Health Statistics established pursuant to 42 U.S.C. 242k, section 306(k)(2) of the Public Health Service Act, as amended, will convene on Monday and Tuesday, December 8-9, 1986 from 9:00 a.m. to 5:00 p.m. in Room 403-A of the Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201.

The Subcommittee will hear presentations from experts describing data on access to and financing of health care for minority groups from major Department of Health and Human Services data bases (e.g., National Medical Expenditure Survey, National Health Interview Survey, Medicaid, and Medicare).

Further information regarding this meeting of the Subcommittee may be obtained by contacting Nancy D. Pearce, National Center for Health Statistics, Room 2-28, Center Building, 3700 East-West Highway, Hyattsville, Maryland 20782, telephone (301) 426-7050.

Dated: November 5, 1986.

Manning Feinleib,

Director, National Center for Health Statistics.

[FR Doc. 86-25878 Filed 11-14-86; 8:45 am]

BILLING CODE 4160-17-M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. D-86-825; FR 2306]

Organization, Functions, and Authority Delegations; Office of the Manager, San Antonio Office, Designation; Order of Succession

AGENCY: Department of Housing and Urban Development.

ACTION: Designation of order of succession.

SUMMARY: The Acting Manager is designating officials who may serve as Acting Manager during the absence, disability, or vacancy in the position of the Manager.

EFFECTIVE DATE: This designation is effective October 8, 1986.

FOR FURTHER INFORMATION CONTACT: Ann Hallan, Director, Management and Budget Division, Office of Administration, Fort Worth Regional Office, Department of Housing and Urban Development, 1600 Throckmorton, P.O. Box 2905, Fort Worth, Texas 76113-2905, Telephone (817) 885-5451 (this is not a toll-free number).

Designation

Each of the officials appointed to the following positions is designated to serve as Acting Manager during the absence, disability, or vacancy in the position of the Manager, with all the powers, functions, and duties redelegated or assigned to the Manager: Provided that no official is authorized to serve as Acting Manager unless all preceding listed officials in this designation are unavailable to act by reason of absence, disability, or vacancy in the position:

1. Deputy Manager;
2. Director, Housing Development Division;
3. Chief Counsel; and
4. Director, Housing Management Division.

This designation supersedes the designation published at D-84-751, FR 1862 on May 15, 1984.

Authority: Delegation of Authority by the Secretary effective October 1, 1970: 36 FR 3389, February 23, 1971.

Sam R. Moseley,

Regional Administrator—Regional Housing Commissioner, Region VI.

[FR Doc. 86-25860 Filed 11-14-86; 8:45 am]

BILLING CODE 4210-01-M

Office of Administration

[Docket No. N-86-1649]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notices.

SUMMARY: The proposed information collection requirements described below have been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

Action

Interested persons are invited to submit comments regarding these proposals. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer, Department of Housing and Urban Development, 451 7th Street SW., Washington, DC 20410, telephone (202) 755-6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposals described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notices list the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency official familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposals should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirements are described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Comprehensive Improvement Assistance Program (CIAP): Application Requirements
Office: Public and Indian Housing
Form Number: HUD–52821, 52823, 52824, and 52825
Frequency of Submission: On Occasion and Annually
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated Burden Hours: 16,288
Status: Extension
Contact: Pris P. Buckler, HUD, (202) 755–6640; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 5, 1986.

Proposal: Local Appeals to Single Family Mortgage Limits
Office: Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 480
Status: Extension
Contact: Morris Carter, HUD, (202) 426–7212; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 5, 1986.

Proposal: Deed-in-Lieu of Foreclosure (Corporate Morgagors or Mortgagors Owning More Than One Property)
Office: Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: Individuals or Households and Businesses or Other For-Profit
Estimated Burden Hours: 300
Status: Extension
Contact: Fred W. Pfaender, HUD, (202) 755–6672; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 5, 1986.

Proposal: Cost Containment Policy Statement—Indian Housing Program and Comprehensive Improvement Assistance Program (CIAP)
Office: Public and Indian Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: State or Local Governments and Non-Profit Institutions
Estimated Burden Hours: 66
Status: New
Contact: Patricia Arnaudo, HUD, (202) 755–1015; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 5, 1986.

Proposal: Indian Preference Final Rule
Office: Public and Indian Housing
Form Number: None
Frequency of Submission: On Occasion
Affected Public: State or Local Governments, Businesses or Other For-Profit, and Small Businesses or Organizations
Estimated Burden Hours: 2,800
Status: Extension
Contact: John V. Meyers, HUD, (202) 755–1015; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 5, 1986.

Proposal: Statement of Profit and Loss
Office: Housing
Form Number: HUD–92410
Frequency of Submission: Annually
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 16,000
Status: Extension
Contact: Matt Andrea, HUD, (202) 755–6870; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 5, 1986.

Proposal: Request for Release of Documents and Debit Authorization, 24 CFR Part 390
Office: Government Naitonal Mortgage Association
Form Number: HUD–11708 and 11709–A
Frequency of Submission: On Occasion
Affected Public: Business or Other For-Profit
Estimated Burden Hours: 650
Status: Extension
Contact: Patricia Gifford, HUD (202) 755–5550; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 5, 1986.

Proposal: Weekly Opinion Poll of Mortgage Market Conditions
Office: Housing
Form Number: None
Frequency of Submission: Weekly
Affected Public: Businesses or Other For-Profit
Estimated Burden Hours: 156
Status: Extension
Contact: John Dickie, HUD (202) 755–7270; Robert Fishman, OMB, (202) 395–6880.

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 5, 1986.

Donald C. Demitros,

Director, Office of Information Policies and Systems.

[FR Doc. 86–25858 Filed 11–14–86; 8:45 am]
BILLING CODE 4210–01–M

[Docket No. N–86–1651]

Submission of Proposed Information Collection to OMB

AGENCY: Office of Administration, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below has been submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

ACTION: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and should be sent to: Robert Fishman, OMB Desk Officer, Office of Management and Budget, New Executive Office Building, Washington, DC 20503

FOR FURTHER INFORMATION CONTACT: David S. Cristy, Reports Management Officer Department of Housing and Urban Development, 451 7th Street, SW., Washington, DC 20410, telephone (202) 755–6050. This is not a toll-free number.

SUPPLEMENTARY INFORMATION: The Department has submitted the proposal described below for the collection of information to OMB for review, as required by the Paperwork Reduction Act (44 U.S.C. Chapter 35).

The Notice lists the following information: (1) The title of the information collection proposal; (2) the office of the agency to collect the information; (3) the agency form number, if applicable; (4) how frequently

information submissions will be required; (5) what members of the public will be affected by the proposal; (6) an estimate of the total number of hours needed to prepare the information submission; (7) whether the proposal is new or an extension or reinstatement of an information collection requirement; and (8) the names and telephone numbers of an agency offical familiar with the proposal and of the OMB Desk Officer for the Department.

Copies of the proposed forms and other available documents submitted to OMB may be obtained from David S. Cristy, Reports Management Officer for the Department. His address and telephone number are listed above. Comments regarding the proposal should be sent to the OMB Desk Officer at the address listed above.

The proposed information collection requirement is described as follows:

Notice of Submission of Proposed Information Collection to OMB

Proposal: Letter of transmittal, 24 CFR Part 390
Office: Government National Mortgage Association
Form Number: HUD–11700, 11702, 11707, and 11749
Frequency of submission: On occasion
Affected public: Business or other for-profit
Estimated burden hours: 15,230
Status: Extension
Contact:
Patricia Gifford, HUD, (202) 755–5550;
Robert Fishman, OMB, (202) 395–6880

Authority: Sec. 3507 of the Paperwork Reduction Act, 44 U.S.C. 3507; sec. 7(d) of the Department of Housing and Urban Development Act, 42 U.S.C. 3535(d).

Dated: November 5, 1986.

Donald C. Demitros,

Director, Office of Information Policies and Systems.

[FR Doc. 86–25859 Filed 11–14–86; 8:45 am]

BILLING CODE 4210–01–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–940–87–4220–10; C–44666]

Proposed Withdrawal; Opportunity for Public Hearing; Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Department of Agriculture, Forest Service, has filed application for withdrawal of approximately 4,523 acres of National Forest System lands from location and entry under the United States mining laws only for protection of high value, irreplaceable, geologic features near Glenwood Springs, Colorado. The area proposed for withdrawal is within the boundaries of the White River National Forest. This notice segregates the land for a period of two years during which time the Forest Service will do the necessary studies to determine whether this site should be recommended to be withdrawn for 100 years. The land will continue to be open to all uses other than mining laws.

DATE: Comments or requests for hearing should be received on or before February 17, 1987.

ADDRESS: Colorado State Office, 2850 Youngfield Street, Lakewood, Colorado 80215.

FOR FURTHER INFORMATION CONTACT: Doris E. Chelius, 303–236–1768.

The Department of Agriculture proposes that the National Forest System lands identified below be withdrawn from location and entry under the United States mining laws only, subject to valid existing rights, pursuant to the authority vested in the Secretary of the Interior by section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751, 43 U.S.C. 1714:

Arapahoe National Forest

Sixth Principal Meridian

T. 4 S., R. 87 W.,
Sec. 16, lots 1 thru 4;
Sec. 17, lots 1 thru 8, S½N½, and S½;
Sec. 18, lots 5 thru 12, E½W½, and E½;
Sec. 19, lots 5 thru 12, E½W½, and E½;
Sec. 20, all;
Sec. 30, lots 5 thru 8, NE¼, and E½NW¼.
T. 4 S., R. 88 W.,
Sec. 13, E½;
Sec. 24, E½;
Sec. 25, E½.

The area described aggregates approximately 4,523.29 acres in Rio Blanco County, Colorado.

Effective on date of publication, this land is segregated from operation of the United States mining laws. The land remains open to mineral leasing and to Forest Service management.

The segregative effect of this pending application will terminate 2 years from the date of this application unless final withdrawal action is taken or the application is terminated prior to that date. Notice of any action will be published in the **Federal Register.**

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with this proposed withdrawal application may present their views in writing to the Colorado State Office.

Pursuant to section 204(h) of the Federal Land Policy and Management Act of 1976, notice is hereby given that an opportunity for a public hearing is afforded in connection with the proposed withdrawal. All interested persons who desire to be heard on this proposed action must submit a written request for a hearing to the Colorado State Director within 90 days from the date of this application. If it is determined that a public hearing should be held, the hearing will be scheduled and conducted in accordance with Bureau of Land Management Manual, section 2351.16B.

The Department of the Interior's regulations provide that the authorized officer of the Bureau of Land Management will undertake such investigations as are necessary to determine the existing and potential demands for the land and its resources. The authorized officer will undertake negotiations with the applicant agency to assure that the area sought is the minimum essential to meet the applicant's needs, to provide for the maximum concurrent utilization of the land for purposes other than the applicant's, and to reach an agreement on the concurrent mangement of the land and its resources.

The authorized officer will also prepare a report for consideration by the Secretary of the Interior who will determine whether or not the land will be withdrawn and reserved as requested by the applicant agency. The determination of the Secretary on this application will be published in the **Federal Register.**

Robert D. Dinsmore,

Chief, Branch of Lands and Minerals Operations.

[FR Doc. 86–25891 Filed 11–11–86; 8:45 am]

BILLING CODE 4310–JB–M

[CO–942–06–4520–12]

Colorado; Filing of Plats of Survey

November 6, 1986.

The plats of survey of the following described land, will be officially filed in the Colorado State Office, Bureau of Land Management, Lakewood, Colorado, effective 10:00 a.m., November 6, 1986.

The plat, in two sheets, representing the dependent resurvey of a portion of the Twelfth Standard Parallel North (south boundary, T. 49 N., Rs. 7 and 8 W.), the First Guide Meridian West (west boundary), the south boundary, a portion of the east boundary, and subdivisional lines, and the survey of

the subdivision of certain sections, T. 48 N., R. 8 W., New Mexico Principal Meridian, Colorado, Group No. 748, was accepted October 30, 1986.

The plat, in two sheets, representing the dependent resurvey of a portion of the U.S. Military Reservation (abandoned), a portion of the south and west boundaries, and a portion of the subdivisional lines, and the survey of the subdivision of certain sections, T. 48 N., R. 9 W., New Mexico Principal Meridian, Colorado, Group No. 720, was accepted October 30, 1986.

The supplemental plat showing the subdivision of original lots 2 and 3, section 4, T. 5 S., R. 95 W., Sixth Principal Meridian, Colorado, was accepted November 5, 1986.

The supplemental plat showing amended lottings created by the segregation of Mineral Survey No. 20819, Colorado, approved December 16, 1958, in sections 10, 11, and 12, T. 6 S., R. 95 W., Sixth principal Meridian, Colorado, was accepted November 5, 1986.

The supplemental plat showing a subdivision of original lot 8, section 6, T. 5 S., R. 99 W., Sixth Principal Meridian, Colorado, was accepted November 5, 1986.

The supplemental plat creating new lots and areas in the SW¼SW¼ of section 33, T. 1 S., R. 100 W., Sixth Principal Meridian, Colorado, was accepted November 5, 1986.

The supplemental plat creating new lots and areas in sections 1, 2, 3, and 4, T. 2 S., R. 100 W., Sixth Principal Meridian, Colorado, was accepted November 5, 1986.

The supplemental plats were prepared and the surveys were executed to meet certain administrative needs of this Bureau.

All inquiries about this land should be sent to the Colorado State Office, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215.

Duane E. Olsen,

Acting Chief Cadastral Surveyor for Colorado.

[FR Doc. 86-25890 Filed 11-14-86; 8:45 am]

BILLING CODE 4310-JB-M

[NV-930-07-4212-11; N-18687]

Classification Termination; U.S. Highway 93, West Wendover, NV

November 4, 1986.

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Classification Termination, Nevada.

SUMMARY: This notice terminates a portion of Recreation and Public Purposes classification N-18687, to allow for the relocation of a portion of U.S. Highway 93 at West Wendover, Nevada.

EFFECTIVE DATE: December 17, 1986.

FOR FURTHER INFORMATION CONTACT: Rod Harris, District Manager, Elko District Office, P.O. Box 831, Elko, Nevada 89801 (702) 738-4071.

SUPPLEMENTARY INFORMATION: Pursuant to 43 CFR 2450.6(b), the Bureau of Land Management hereby terminates in part Recreation and Public Purposes classification N-18687 as it pertains to the following described public lands:

Mount Diablo Meridian, Nevada

T. 33 N., R. 70 E.,
Sec. 15, lot 13.

The area described contains 4.13 acres in Elko County, Nevada.

In June 1978, 119.57 acres were classified for recreation and public purposes and a lease was subsequently issued to Elko County for municipal facilities and recreation use. The Nevada Department of Transportation (NDOT) proposes to reconstruct a bridge that carries U.S. Highway 93 across the railroad tracks at West Wendover, Nevada. As part of this project, the intersection of U.S. Highway 40 would be moved west to design a more perpendicular approach. As a consequence of moving the intersection, the road would cross public land under R&PP lease to Elko County. In order to accommodate the proposed NDOT project, Elko County relinquished the portion of their lease in lot 13 and said relinquishment has been accepted.

At 10:00 a.m., on December 17, 1986, the land will be open to the operation of the public land laws, subject to valid existing rights. All valid applications received prior to or at 10:00 a.m., on December 17, 1986, will be considered as simultaneously filed. All other applications received will be considered in the order of filing.

At 10:00 a.m., on December 17, 1986, the land will also be open to the operation of the mining laws.

Appropriation of lands under the general mining laws prior to the date and time of restoration is unauthorized. Any such attempted appropriation, including attempted adverse possession under 30 U.S.C. section 38, shall vest no rights against the United States. Acts required to establish a location and to initiate a right of possession are governed by State law where not in conflict with Federal law. The Bureau of Land Management will not intervene in disputes between rival locators over possessory rights since Congress has provided for such determination in local courts.

The land remains open to the mineral leasing and material sale laws.

Edward F. Spang,

State Director, Nevada.

[FR Doc. 86-25889 Filed 11-14-86; 8:45 am]

BILLING CODE 4310-HC-M

Availability of Environmental Impact Statements for Natural Gas Pipeline Right-of-Way and Dredging Permits Between Prudhoe and Anderson Bays Near Valdez, AK

AGENCY: Bureau of Land Management, Department of the Interior and U.S. Army Corps of Engineers, Department of Defense.

ACTION: Notice of Intent to prepare an Environmental Impact Statement (EIS) for a Grant of Right-of-Way across certain Federal lands in Alaska and for Department of Army permits under section 404 of the Clean Water Act and section 10 of the River and Harbor Act of 1899 for the discharge of dredged or fill material into waters of the United States (including adjacent wetlands) and for work (including structures placed) in navigable waters of the United States.

Notice of Amended Application

Notice of Public Scoping Meetings

SUMMARY: On May 1, 1984, the Yukon Pacific Corporation (YPC) applied for a right-of-way for the Trans-Alaska Gas System (TAGS) across Federal lands to allow construction of a 36 to 48-inch pipeline and related facilities along a route between Prudhoe Bay to Nikiski on the shores of Cook Inlet. Notice of the 1984 right-of-way application to the Bureau of Land Management (BLM) (AA-53559 and F-083941) was published in the Federal Register Vol. 49, No. 97, p. 20945-46 on May 17, 1984.

The Alaska District, U.S. Army Corps of Engineers (Corps), originally assigned the project file number 2-840222 and the waterway number Cook Inlet 319. The waterway number has recently been changed to Valdez Harbor 105 due to the revised project proposal.

The 1984 applications were deemed incomplete by the BLM and the Corps and further action suspended. Subsequently YPC revaluated its 1984 application and determined the perfected right-of-way application to BLM and the application for Department of the Army permits would be for a 36-inch natural gas pipeline and related facilities between Prudhoe Bay and Anderson Bay near Valdez. This modified routing parallels the Trans-Alaska Pipeline System (TAPS) and

authorized Alaska Natural Gas Transporation System (ANGTS) right-of-way (REVISION 4) to the vicinity of Delta Junction; thence southerly paralleling TAPS to Valdez, and; thence along the south shore of Valdez Arm approximately five miles to Anderson Bay.

The perfected application for the TAGS project to Anderson Bay will be filed with the BLM and Corps on December 5, 1986. It will not involve lands in any Conservation System Unit established under the Alaska National Interest Lands Conservation Act of 1980. Lands within the Chugach National Forest are in private, State or local governmental ownerships. The 1984 application involves lands within the Denali National Park and Preserve and should the Cook Inlet alternative be selected as the preferred route upon completion of the EIS, issuance of Federal permits would be deferred until completion of the requirments of 43 CFR Part 36.

Yukon Pacific Corporation also must file an application with Economic Regulatory Administration for authorization to export the liquified natural gas. The President is required to make findings under section 12 of the Alaska Natural Gas Transportation Act as part of any export decision for Alaska North Slope Natural gas.

In addition to Federal permits, the Yukon Pacific Corporation intends to file a right-of-way application with the State of Alaska to cross certain State ownerships.

Purpose

In accordance with section 102(2)(c) of the National Environmental Policy Act, the BLM and Corps have identified the need to prepare an Environmental Impact Statement.

In accordance with 40 CFR 1501.5 BLM and the Corps will assume co-lead with BLM acting as the Federal focal point.

In accordance with 40 CFR 1506.2 the State of Alaska, the BLM and the Corps are preparing a coordinated public involvement and decision process to reduce to the fullest extent possible duplication of effort.

In accordance with 40 CFR 1501.7 public scoping meetings have been scheduled at the following locations:

Barrow, Alaska—Assembly Room, North Slope Borough Administration Building, December 8, 1986. Public workshop 2:30–5 PM AST; Public Scoping meeting 7–11 PM AST.

Fairbanks, Alaska—Assembly Chambers, North Star Borough Administration Building, December 9, 1986. Public workshop 2:30–5 PM AST; Public Scoping meeting 7–11 PM AST.

Glenallen, Alaska—Glenallen High School Gym December 10, 1986. Public workshop 2:30–5 PM AST; Public Scoping meeting 7–11 PM AST.

Valdez, Alaska—City Council Chambers, Valdez City Hall December 11, 1986. Public workshop 2:30–5 PM AST; Public Scoping meeting 7–11 PM AST.

Soldotna, Alaska—Assembly Room—Peninsula Borough Administration Offices, December 12, 1986. Public workshop 2:30–5 PM AST; Public Scoping meeting 7–11 PM AST.

Anchorage, Alaska—BLM Anchorage District Office, December 13, 1986, Public workshop 2:30–5 PM AST; Public Scoping Meeting 7–11 PM AST.

All interested parties are invited to participate in the scoping process which will:

1. Ascertain the scope and significant issues to be analyzed in depth in the EIS.

2. Eliminate insignificant issues, concerns and opportunities or those that have been covered by prior environmental review.

3. Identify significant issues, concerns and opportunities to be addressed in depth prior to the Department of the Interior grant of right-of-way or Department of the Army Permits or at specified future Federal authorization points preceding construction and operation of the TAGS project.

Specific issues may involve the following questions:

What actions are necessary to avoid adverse impacts to local communities?

What lands and actions are necessary to protect the TAPS?

What lands and actions are necessary to protect the approved ANGTS right-of-way (Revision 4)?

To what extent are environmental solutions approved for ANGTS applicable to the proposed TAGS project?

To the extent ANGTS and TAGS are similar projects crossing similar areas of Alaska; What aspects of the environmental stipulations contained in the Grant of Right-of-Way F-24538 dated December 1, 1980 from the Department of the Interior for ANGTS, are applicable to the proposed TAGS project?

What actions are necessary to protect subsistence resources?

What actions are necessary to protect fish and wildlife?

What actions are necessary to minimize impacts to wetlands, water bodies, streams, and the marine environment?

What actions are necessary to complete authorizations to construct and operate the TAGS project and the timing of such actions?

What National scale social and economic impacts need to be considered?

In accordance with 40 CFR 1501.6 the following agencies have been requested to participate in the EIS process by BLM and the Corps:

State of Alaska

Department of the Interior

National Park Service
Fish and Wildlife Service
Bureau of Indian Affairs
Bureau of Mines
Minerals Management Service
Geological Survey

Office of the Federal Inspector

Environmental Protection Agency

Department of Agriculture

Forest Service

Department of Transportation

Coast Guard
Federal Highway Administration
Office of Pipeline Safety

Department of Commerce

National Marine Fisheries Service

Department of Energy

Economic Regulatory Administration

The EIS will be prepared under third party contract by Harding Lawson Associates. A draft EIS is expected to be available for public review and comment in the spring of 1987 with the Final EIS completed in the late summer of 1987.

Responsible official is Jules V. Tileston, BLM Program Officer—TAGS located in the BLM Alaska State Office, Anchorage, Alaska.

Written comments and suggestions should be sent to Jules V. Tileston, BLM Program Officer—TAGS, Bureau of Land Management, Alaska State Office, 701 C Street, Box 30, Anchorage, Alaska 99513, phone (907) 271–4440. Written scoping comments must be received not later than December 23, 1986.

Questions about the proposed actions and EIS related to Department of Army permits also may be addressed to: Mr. William M. Fowler, Project Manager, Alaska District, U.S. Army Corps of Engineers, P.O. Box 898, Anchorage, Alaska 99506–0898, Telephone number: (907) 753–2712.

In accordance with 6 AAC 50, the State of Alaska will be requesting preliminary communication on compliance of portions of the proposed

TAGS project with the Alaska Coastal Zone Management Act. Also information developed during the BLM EIS process will be used by the State when YPC applies for the right-of-way lease over State land. Questions about State actions may be addressed to: Mr. Rod Swope, State of Alaska, Office of the Governor, Office of Management and Budget, P.O. Box AW, Juneau, Alaska 99811-0165, Telephone number: (907) 465-3562.

The TAGS applications are available for public inspection after December 5, 1986 at the following locations:

Bureau of Land Management, Alaska State Office, Public Room, Federal Office Building, Anchorage, Alaska
Bureau of Land Management, Anchorage, Branch of Field and Office Services, 6881 Abbott Loop, Anchorage, Alaska
Bureau of Land Management, Fairbanks Support Center, 1541 Gaffney Road, Fairbanks, Alaska
U.S. Army Corps of Engineer, Alaska District, Regulatory Branch, P.O. Box 898, Anchorage, Alaska

Dated: November 6, 1986.

Fred Wolf,

Acting State Director.

[FR Doc. 86-25793 Filed 11-14-86; 8:45 am]

BILLING CODE 4310-SA-M

Minerals Management Service

Development Operations Coordination; Huffco Petroleum Corp.

AGENCY: Minerals Management Service, Interior.

ACTION: Notice of the receipt of a proposed Development Operations Coordination Document (DOCD).

SUMMARY: Notice is hereby given that Huffco Petroleum Corporation has submitted a DOCD describing the activities it proposes to conduct on Lease OCS-G 4750, Block 95, West Cameron Area, offshore Louisiana. Proposed plans for the above area provide the development and production of hydrocarbons with support activities to be conducted from an offshore base located at Cameron, Louisiana.

DATE: The subject DOCD was deemed submitted on November 6, 1986. Comments must be received within 15 days of the date of this Notice or 15 days after the Coastal Management Section receives a copy of the plan from the Minerals Management Service.

ADDRESSES: A copy of the subject DOCD is available for public review at the Office of the Regional Director, Gulf of Mexico Region, Minerals Management Service, 1420 South Clearview Pkwy., Room 114, New Orleans, Louisiana (Office Hours: 9 a.m. to 3:30 p.m., Monday through Friday). A copy of the DOCD and the accompanying Consistency Certification are also available for public review at the Coastal Management Section Office located on the 10th Floor of the State Lands and Natural Resources Building, 625 North 4th Street, Baton Rouge, Louisiana (Office Hours: 8 a.m. to 4:30 p.m., Monday through Friday). The public may submit comments to the Coastal Management Section, Attention OCS Plans, Post Office Box 44487, Baton Rouge, Louisiana 70805.

FOR FURTHER INFORMATION CONTACT: Ms. Angie D. Gobert, Minerals Management Service, Gulf of Mexico OCS Region, Field Operations, Plans, Platform and Pipeline Section; Exploration/Development Plans Unit, Phone (504) 736-2876.

SUPPLEMENTARY INFORMATION: The purpose of this Notice is to inform the public, pursuant to section 25 of the OCS Lands Act Amendments of 1978, that the Minerals Management Service is considering approval of the DOCD and that it is available for public review. Additionally, this Notice is to inform the public, pursuant to § 930.61 of Title 15 of the CFR, that the Coastal Management Section/Louisiana Department of Natural Resources is reviewing the DOCD for consistency with the Louisiana Coastal Resources Program.

Revised rules governing practices and procedures under which the Minerals Management Service makes information contained in DOCDs available to affected States, executives of affected local governments, and other interested parties became effective December 13, 1979, (44 FR 53685).

Those practices and procedures are set out in revised § 250.34 of Title 30 of the CFR.

Dated: November 10, 1986.

J. Rogers Pearcy,

Regional Director, Gulf of Mexico OCS Region.

[FR Doc. 86-25849 Filed 11-14-86; 8:45 am]

BILLING CODE 4310-MR-M

National Park Service

Intent To Negotiate Concession Contract; Olympic National Park, WA

Pursuant to the provisions of Section 5 of the Act of October 9, 1965 (79 Stat. 969; 16 U.S.C. 20), public notice is hereby given that sixty (60) days after the date of publication of this notice the Department of the Interior, through the Director of the National Park Service proposes to negotiate a concession contract for the continued operation of a general store for the public at Olympic National Park in the state of Washington. The contract will be for a period of five (5) years from January 1, 1987, through December 31, 1991, and is conditioned upon completion of an improvement program.

This contract action has been determined to be categorically excluded from the procedural provisions of the National Environmental Policy Act and no environmental document will be prepared.

The existing concessioner, Elizabeth Ketchum, has performed her obligations to the satisfaction of the Secretary under a current permit. Therefore, pursuant to the Act of October 9, 1965, as cited above, the existing concessioner is entitled to be given a preference in the negotiation of a new contract as defined in 36 CFR 51.5.

For a copy of the Statement of Requirements describing the opportunity offered and including the application requirements, interested parties should write to the Superintendent, Olympic National Park, 600 East Park Avenue, Port Angeles, Washington 98362 or call Mr. A. Durand Jones, Assistant Superintendent, 206-452-4501.

The Secretary will consider and evaluate all proposals timely received. Any proposal, including that of the existing concessioner, must be postmarked or hand delivered on or before the sixtieth (60th) day following publication of this notice to be considered and evaluated.

Dated: November 3, 1986.

William J. Briggle,

Acting Regional Director, Pacific Northwest Region.

[FR Doc. 86-25796 Filed 11-14-86; 8:45 am]

BILLING CODE 4310-70-M

Bureau of Reclamation

Intent To Prepare A Draft Environmental Impact Statement; American River Division of the Central Valley Project

AGENCY: Bureau of Reclamation, Interior.

ACTION: Notice of intent to prepare a draft environmental impact statement (EIS) for marketing water in the American River Division of the Central Valley Project.

SUMMARY: Pursuant to section 102(2)(C) of the National Environmental Policy Act of 1969, as amended, the

Department of the Interior proposes to prepare an Environmental Impact Statement (EIS) for marketing water in the American River division of the Central Valley Project. The Environmental Impact Statement will identify the site specific and cumulative impacts of marketing additional water for agricultural and municipal and industrial purposes (M&I) in the service area. Sacramento County, San Juan Suburban Water District, and the City of Folsom have identified needs of approximately 290,000 to 360,000 acre-feet per year to the year 2020. Placer County Water Agency has requested consideration for a change in point of diversion to Folsom for a portion of their 237,000 acre-feet under their contract. A major objective of the EIS will be to identify the actual amount of water needed to meet agricultural and M&L demands, and fish and wildlife and recreation needs on the Lower American River.

Two workshops have been scheduled to solicit information from interested public entities and persons in determining the scope of the EIS and the significant issues related to the alternatives identified.

DATES: The workshops will be held on December 10, 1986, at 7:00 p.m. in Sacramento, California, and December 11, 1986, at 7:00 p.m. in Folsom, California.

ADDRESSES: The workshops will be held at:

Beverly Garland Hotel, Point West Ballroom, 1780 Tribute Road, Sacramento, California
Folsom High School, 715 Riley Street, Folsom, California

FOR FURTHER INFORMATION CONTACT: Mr. William Payne, Environmental Specialist, Mid-Pacific Region (MP–750), 2800 Cottage Way, Sacramento, California 95825, telephone (916) 978–5488.

SUPPLEMENTARY INFORMATION: The water marketing EIS will include the grographic area currently served or proposed to be served by the American River and Folsom South Canal. The area under consideration lies between Folsom Lake and the confluence of the American and Sacramento Rivers. Portions of Placer and Sacramento Counties, California, would be included in the study.

Primary impacts which will be evaluated in the EIS include potential effects on water quality, fish and wildlife, floodplains and wetlands, endangered species, recreation, and socio-economic.

A full range of alternatives will be analyzed in the EIS, including:

1. Servicing municipal, industrial, and agricultural needs as well as protecting fishery, wildlife, and recreational resources. Representative combinations of these principal needs would be analyzed based on alternatives which are identified during the scoping process.

2. Taking no action to increase the quantity of water under Federal contract.

The Bureau's proposed action for marketing water in the American River service area will be identified based on the results of the impact assessment and mitigation planning. The objective of this action will be to define the amount of water that could be marketed while protecting environmental resource values.

Dated: October 7, 1986.

C. Dale Duvall,

Commissioner.

[FR Doc. 86–25795 Filed 11–14–86; 8:45 am]

BILLING CODE 4310–09–M

INTERSTATE COMMERCE COMMISSION

[Finance Docket No. 30928]

CSX Transportation, Inc.; Trackage Rights—Baltimore & Ohio Chicago Terminal Railroad Co.; Exemption

The Baltimore and Ohio Chicago Terminal Railroad Company (B&OCT) has agreed to grant local trackage rights to CSX Transportation, Inc. (CSX) between Blue Island Junction and 71st Street in Bedford Park, IL, a distance of approximately 10.8 miles. The trackage rights will be effective on November 2, 1986.

This notice is filed under 49 CFR 1180.2(d)(3) and (7). Petitions to revoke the exemption under 49 U.S.C. 10505(d) may be filed at any time. The filing of a petition to revoke will not stay the transaction.

As a condition of this exemption, any employees affected by the trackage rights will be protected pursuant to *Norfolk and Western Ry. Co.—Trackage Rights—BN*, 354, I.C.C. 605 (1979), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate*, 360 I.C.C. 653 (1980).

Dated: November 5, 1986.

By the Commission, Jane F. Mackall, Director, Office of Proceedings.

Noreta R. McGee,

Secretary.

[FR Doc. 86–25821 Filed 11–14–86; 8:45 am]

BILLING CODE 7035–01–M

Release of Waybill Data For Use in Agricultural Transportation Research Projects

The Commission has received a request from the Upper Great Plains Transportation Institute (Institute), North Dakota State University, for permission to use certain data from the Commission's 1985 Waybill Sample for various agricultural transportation research projects. One project would examine the differences in commodity flow patterns and rates to Pacific ports from wheat producing regions of North Dakota, Kansas, and Nebraska. A second project would involve a regional commodity flow analysis of the Upper Great Plains. The third project would entail both an intraregional and interregional analyses of grain traffic flows. To conduct these analyses, the Institute requests the following waybill data:

All commodities at the 5-digit STCC (Standard Transportation Commodity Code) level.
Number of carloads per shipment.
Tons per shipment.
Short line mileage.
Revenue.
Variable Rail Form A cost.
Standard Point Location Code (SPLC).
AAR car type.
TOFC/COFC flag.
TOFC/COFC initial.
TOFC/COFC plan number.
Number of TOFC/COFC.
Hazardous materials code.
Origin railroad.
Termination railroad.
Bridge railroads.
Bridge points.
Waybill date.
Car initial.

The Commission requires rail carriers to file waybill sample information if in any of the past three years they terminated on their lines at least: (1) 4,500 revenue carloads or (2) 5 percent of revenue carloads in any one State (49 CFR Part 1244). From this waybill information, the Commission has developed a Public Use Waybill File that has satisfied the majority of all our waybill data requests while protecting the confidentiality of proprietary data submitted by the railroads. However, if confidential waybill data are requested, as in this case, we will consider releasing the data only after certain protective conditions are met and public notice is given. More specifically, under the Commission's current policy for handling waybill requests, we will not release any confidential waybill data until after: (1) Public notice is provided so affected parties have an opportunity

to object and (2) certain requirements designed to protect the data's confidentiality are agreed to by the requesting party (48 FR 40328, September 6, 1983).

Accordingly, if any parties object to this request, they should file their objections (an original and 2 copies) with the Director of the Commission's Office of Transportation Analysis (OTA) within 14 calendar days of the date of this notice. They should also include all grounds for objection to the full or partial disclosure of the requested data. The Director of OTA will consider these objections in determining whether to release the requested waybill data. Any parties who objected will be timely notified of the Director's decision.

Contact: Elaine Kaiser, (202) 275–7003.

Noreta R. McGee,

Secretary.

[FR Doc. 86–25820 Filed 11–14–86; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–55; Sub-189X]

CSX Transportation, Inc.; Exemption; Abandonment of Portions of Tampa Terminal in Hillsborough County, FL

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, the abandonment by CSX Transportation, Inc., of (1) its 0.51-mile line of railroad between Milepost A–890. 95 and A–891.46 at Port Tampa, and (2) its 0.51-mile line of railroad between Milepost S–843.95 and S–844.46 adjacent to Adamo Drive, both in Tampa Terminal in Hillsborough County, FL, subject to standard employee protective conditions.

DATES: This exemption is effective on December 17, 1986. Petitions to stay must be filed by November 28, 1986, and petitions for reconsideration must be filed by December 8, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB. 55 (Sub-No. 189X):

(1) Office of the Secretary, Case Control Branch, Interstate Commerce Commission, Washington, DC 20423.

(2) Petitioner's representative:

Patricia Vail, Charles M. Rosenberger, 500 Water Street, Jacksonville, FL 32202

Peter J. Schudtz, Lawrence H. Richmond, 100 N. Charles Street, Baltimore, MD 21201

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: November 7, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–25866 Filed 11–14–86; 8:45 am]

BILLING CODE 7035–01–M

[Docket No. AB–57; Sub-20X]

Soo Line Railroad Co.; Exemption; Abandonment in Douglass County, WI

AGENCY: Interstate Commerce Commission.

ACTION: Notice of exemption.

SUMMARY: The Interstate Commerce Commission exempts the Soo Line Railroad Company from the prior approval requirements of 49 U.S.C. 10903, *et seq.*, to abandon a portion of its line between Milepost 98.75 at Danbury, WI, to Milepost 98.79 at the Wisconsin-Minnesota border and extending through Minnesota to Milepost 129.19 at th Minnesota-Wisconsin border and continuing to Milepost 144.64 at Junction 278 near Superior, WI, a distance of approximately 45.89 miles.

DATES: This exemption will be effective on December 17, 1986. Petitions for stay must be filed by November 27, 1986, and petitions for reconsideration must be filed by December 8, 1986.

ADDRESSES: Send pleadings referring to Docket No. AB. 57 (Sub-No. 20X) to:

(1) Office of the Secretary, Case Control Branch Interstate Commerce Commission, Washington, DC 20423; and

(2) Petitioner's representative: Larry D. Starns, Soo Line Railroad Company, 804 Soo Line Building, P.O. Box 530, 105 South Fifth Street, Minneapolis, MN 55440.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275–7245.

SUPPLEMENTARY INFORMATION: Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to T.S. InfoSystems, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423, or call 289–4357 (DC Metropolitan area) or toll free (800) 424–5403.

Decided: November 6, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86–25867 Filed 11–14–86; 8:45 am]

BILLING CODE 7035–01–M

[Ex Parte No. 387; Sub-959]

Contract Rate Competitive Impact Report—Grain Shippers

AGENCY: Interstate Commerce Commission.

ACTION: Report to Congress.

SUMMARY: Congress has instructed the Commision's contract rate advisory service to assess the impact on competition among grain shippers of variations between contract rates and single car tariff rates and to submit a report to Congress by February 18, 1987. Grain shippers are invited to describe the specific effects that railroad contract rates versus single car tariff rates have had on their competitive position in the grain trade. We also invite remarks from other parties who have specific knowledge of the impact of railroad contract rates on competition among grain shippers.

DATE: Responses must be submitted by December 19, 1986 and should refer to Ex Parte No. 387 (Sub-No. 959).

ADDRESS: An original and two copies should be sent to: Contract Rate Advisory Service, Office of Transportation Analysis, Interstate Commerce Commission, Washington, DC 20423.

FOR FURTHER INFORMATION CONTACT: Michael E. Sullivan, (202) 275–7692

or

Michael J. Dalton III, (202) 275–0193.

SUPPLEMENTARY INFORMATION: Section 4051 of the Conrail Privatization Act which was embraced in the Omnibus Budget Reconciliation Act, Pub. L. 99–509, enacted October 21, 1986, amends 49 U.S.C. 10713 (section 208 of the Staggers Rail Act of 1980) to provide for the expansion of the information to be publicly disclosed in railroad contract summaries for contracts on agricultural commodities. In addition, the legislation requires the Commission's contract rate advisory service to submit a report on the competitive impact of contract rates on agricultural shippers to Congress not later than February 18, 1987. Specifically section 4051 (D) provides:

The railroad contract rate advisory service established pursuant to subsection (m) of this section shall assess the impact on competition among agricultural shippers of

variations between contract rates for various shipments and the published single car rates, and shall submit a report to the Congress not later than 120 days after the date of the enactment of the Conrail Privatization Act.

Under 49 CFR 1039.10, all farm products except grain, soybeans, and sunflower seeds are exempt from Commission jurisdiction. As a result, for purposes of this study, agricultural shippers means grain shippers and receivers. Grain will embrace all raw grains (STCC 0113), soybeans (STCC 01144), and sunflower seeds (STCC 0114940).

Grain shippers/receivers constitute a wide range of competing interests within the grain trade. These interests range from farmers and small country elevators competing for the farmers' grain at the local level to the large multifacility exporters competing in the world market. In order to assess the overall impact of railroad contract rates, we encourage all segments of the grain trade (from small shippers to large shippers) to comment on their competitive experience with railroad contract rates over the past six years.

Because of the public nature of the study, responses will not be treated as confidential. Therefore, parties filing responses should not reveal confidential provisions of their specific railroad rate contracts unless they are willing to make such information public. In order to effectively assess the responses, we request that grain shippers/receivers furnish and discuss, at a minimum, the following information:

1. Name/Address of Company.
2. Nature of Operations (country elevator, processor, merchandiser, exporter, integrated operations, etc.).
3. Elevator Location, Track Capacity (number of cars), Serving Railroad(s) (companies with more than one facility should submit a complete list of facilities identifying country elevators, sub-terminal elevators, terminal elevators, etc.).
4. Elevator Expansion in Past Six Years/Future Plans.
5. Primary Grains Handled.
6. Annual Rail Shipments (number of carloads).
7. Primary Rail Shipping Units (single car, multi-car, unit trains).
8. Primary Method of Rail Freight Bill Settlements (origin shipper billed by railroad; destination receiver billed by railroad).
9. Have you Entered Into Any Railroad Contracts? Yes _____ No _____

(Please include reasons why you have or have not obtained contract rates, such as traffic volume, transportation competition, market competition, etc.)

10. What Effects Have Railroad Rate Contracts Had on Your Competitive Postition?

Positive _____ Negative _____
No Change _____ Don't Know _____

(Please discuss in detail new markets, loss of markets, curtailed operations, expanded operations, modal shifts, gain or loss of customers, changes in grain price offers, etc.)

11. Other Comments.

Parties, other than grain shippers/receivers, should focus their comments on the specific competitive impacts of contract ratemaking on the grain trade.

This action will not significantly affect either the quality of the human environment or energy conservation. Also, this action (Report to Congress) will not have a significant economic impact on a substantial number of small entities, nor will it increase the compliance burden on regulated carriers or members of the public who have an interest in this action.

Authority: 49 U.S.C. 10321 and 10713; and 5 U.S.C. 553.

Dated: November 7, 1986.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Sterrett, Andre, and Lamboley.

Noreta R. McGee,

Secretary.

[FR Doc. 86-25865 Filed 11-14-86; 8:45 am]

BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Lodging of Consent Decree Pursuant to the Safe Drinking Water Act; Paxton Water Corp. and Lee Hiatt

In accordance with Department Policy, 29 CFR 50.7, notice is hereby given that on November 3, 1986, a proposed consent decree in *United States* v. *Paxton Water Corporation and Lee Hiatt,* Civil Action No. TH 86-101-C, was lodged with the United States District Court for the Southern District of Indiana. The proposed consent decree concerns violations of the national interim primary drinking water regulations by the Paxton Water Corporation, which owns and operates a water distribution system located in Carlisle, Indiana. The proposed consent decree requires Paxton Water Corporation to hire a certified operator to perform sampling, check for cross-connections which might contaminate the water supply and to make all required reports to the Environmental Protection Agency. Paxton Water Corporation is also required to pay a civil penalty of $3,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General of the Land and Natural Resources Division, U.S. Department of Justice, Washington, DC 20530, and should refer to *United States v. Paxton Water Corporation and Lee Hiatt,* D.J. Ref. 90-5-1-1-2600.

The Proposed consent decree may be examined at the office of the United States Attorney, 274 United States Courthouse, 46 East Ohio Street, Indianapolis, Indiana 46204 and at the Region V office of the Environmental Protection Agency, 230 South Dearborn Street, Chicago, Illinois 60604. Copies of the consent decree may be examined at the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice, Room 1517, Ninth Street and Pennsylvania Avenue NW., Washington, DC 20530. A copy of the proposed consent decree may be obtained in person or by mail from the Environmental Enforcement Section, Land and Natural Resources Division of the Department of Justice. In requesting a copy, please enclose a check in the amount of $1.80 (10 cents per page reproduction cost) payable to the Treasurer of the United States.

F. Henry Habicht II,

Assistant Attorney General, Land and Natural Resources.

[FR Doc. 86-25812 Filed 11-14-86; 8:45 am]

BILLING CODE 4410-01-M

Immigration and Naturalization Service

Implementation of Immigration User Fee Provisions

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice of statutory provision.

SUMMARY: This Notice summarizes the provisions of the Department of Justice Appropriation Act, 1987, concerning the collection and remittance of the Immigration User Fee.

FOR FURTHER INFORMATION CONTACT: For General Information: Loretta J. Shogren, Director, Policy Directives and Instructions, 425 I Street, NW., Washington, DC 20536. Telephone (202) 633-3048.

For Specific Information: Charles S. Thomason, Jr., Systems Accountant, Finance Branch, Immigration and Naturalization Service, 425 I Street NW., Washington, DC 20536. Telephone (202) 633-4705.

SUPPLEMENTARY INFORMATION: Pursuant to the Department of Justice

Appropriation Act, 1987 (Act), approved October 21, 1986, this document provides notice of provisions of this Act that require the collection and payment of a specific fee for the immigration inspection or preinspection of passengers (with certain exceptions) arriving in the United States (U.S.). This document also provides procedures to be used for payment of fees and maintenance of records under section 205 of the Act. Prior to the enactment of this legislation the Immigration and Naturalization Service (INS) had no general legal authority to collect a fee for the inspection or preinspection of passengers arriving in or departing from the U.S. This document is being issued for informational purposes due to the limited period of time available before December 1, 1986, the date the law becomes effective. The INS will publish a Proposed Rule to implement the law at a later date and consideration will be given to all written comments submitted before incorporating changes into the regulations.

Summary of General Provisions and Collection Procedures Under Section 205 of the Act

(1) Section 205 of the Act provides that effective December 1, 1986, INS shall begin charging and collecting a $5.00 user fee (fee) per individual for the immigration inspection of each passenger (with certain exceptions) arriving at a port of entry in the U.S., or for the preinspection of a passenger in a place outside of the U.S. prior to such arrival, aboard a commercial aircraft or commercial vessel. The Attorney General is expressly given the authority to prescribe such rules and regulations as may be necessary to carry out the provisions of the Act.

(2) The fee set forth in paragraph (1) shall not be assessed for the following categories of arriving passengers:

(i) Persons whose journey originates in Canada, Mexico, a territory or possession of the U.S., or any adjacent island. The U.S. territories and possessions include American Samoa, Guam, the Northern Mariana Islands, Puerto Rico and the U.S. Virgin Islands. The adjacent islands include all of the islands in the Caribbean Sea, the Bahamas, Bermuda, St. Pierre, Miquelon, and the Turks and Caicos Islands;

(ii) Crew members and persons directly connected with the operation, navigation, ownership, or business of the vessel or aircraft (but not employees traveling on free and/or reduced rate tickets);

(iii) Diplomats, except for U.S. diplomats, who can show that their names appear on the accreditation listing maintained by the U.S. Department of State. In lieu of such listing an individual diplomat may present appropriate proof of diplomatic status to include possession of a diplomatic passport or visa, or diplomatic identification card issued by a foreign government;

(iv) Persons departing and returning to the U.S. without having touched a foreign port or place;

(v) Persons arriving as passengers on any aircraft used exclusively in the governmental service of the U.S. or a foreign government, including any agency or political subdivision thereof, so long as the aircraft is not carrying persons or merchandise for commercial purposes. Passengers on commercial aircraft under contract to the U.S. Department of Defense are exempted if they have been precleared abroad under a joint DOD/INS military inspection program;

(vi) Persons arriving on an aircraft due to an emergency or forced landing when the original destination of the aircraft was a foreign airport; and

(vii) Persons transiting the U.S. and not processed by INS.

(3) The fee specified in paragraph (1) shall be collected under the following circumstances:

(i) When through tickets or travel documents are issued indicating travel to the U.S. which originates in a location other than as specified in paragraph (2)(i);

(ii) When through tickets or travel documents are issued in an exempt location indicating an arrival in the U.S. following a stopover (layover) in a location other than as specified in paragraph (2)(i); and

(iii) When passengers arrive in the U.S. in transit from a non-exempt location and are processed by INS.

(4) Those who issue tickets or travel documents on or after December 1, 1986, are responsible for the collection of the fee from all passengers transported into the U.S. for whom the fee applies. The ticket or travel document shall be marked to indicate that the required fee has been collected from the passenger. If the ticket is not so marked and was issued in a foreign country, the fee shall be collected and remitted by the departing carrier upon departure of the passenger from the U.S. If collected at time of departure from the U.S., the person making the collection shall issue a receipt to the passenger. U.S.-based tour wholesalers who contract for passenger space and issue non-carrier tickets will collect and remit the fee in the same manner as the carrier.

(5) The immigration services required to be provided to passengers upon arrival in the U.S. on commercial aircraft or commercial vessels shall be provided at no cost (other than the fee to commercial aircraft or commercial vessels and passengers) at:

(i) Immigration serviced ports of entry; and

(ii) Places located outside of the U.S. at which an immigration officer is stationed for the purpose of providing such immigration services.

Procedures for Payment of Fees and Maintaining Records Under Section 205 of the Act

(6) Payment should be made to the Immigration User Fee Account, Department of the Treasury, via Treasury Financial Communications System (TFCS), using Agency Location Code (ALC) 15 12 0003.

(i) Payment must be made no later than 31 days after the close of the calendar quarter in which the fees are collected. If the issuing carrier has not collected the required fee from passengers, the person who first collects the fee shall remit it as provided above.

(ii) The first such payment covering collections for December 1, through December 31, 1986, is due by January 31, 1987. Concurrent with TFCS transmission, each person making such payments shall send a hard copy statement to INS, Office of the Comptroller, Room 6307, 425 I Street, NW., Washington, DC 20536 showing:

(A) Name and address of the party remitting payment;

(B) Taxpayer identification number of the party remitting payment;

(C) Calendar quarter covered by the payment;

(D) Number of tickets or travel documents issued with collection of the fee;

(E) Amounts collected and remitted; and

(F) Passenger volume of arrivals by persons other than those specified in paragraph (2)(i).

(iii) If unable to use TFCS, payments may be made by check or money order payable in U.S. dollars to the INS at the address in (6)(ii).

(iv) Yearly, persons remitting such fees shall submit a certified assurance statement from their independent public accountant to the Comptroller, INS, attesting to the degree of compliance with the law and to the accuracy of remittances of fees collected. This statement would present any material exceptions found during the examination. Certification statements are due within ninety (90) days after the close of each remitter's fiscal year.

(7) Carriers contracting with a U.S.-based tour wholesaler are responsible for notifying INS at the address shown in paragraph (6)(ii) of all flights or voyages contracted, the number of spaces contracted for, and the name, address and taxpayer identification number of the tour wholesaler all within 31 days after the close of the calendar quarter in which such a flight or voyage occurred.

(8) All persons affected by this Notice shall maintain all such documentation necessary for INS or its representative(s) to verify the accuracy of fee computations and to otherwise determine compliance under the law. Such documentation shall be maintained for a period of 2 years from the date of fee collection. Affected companies shall advise the Comptroller, INS, of the name, address, and telephone number of a responsible officer who shall be able to verify any records required to be maintained under this paragraph. The Comptroller, INS, shall be promptly notified of any changes in the identifying information submitted. Required information shall be submitted as set forth in paragraph (6)(ii).

Summary of provisions of Section 206 of the Act

(9) In accordance with section 286(h)(2)(A)(v) of the Immigration and Nationality Act, effective December 1, 1986, INS will provide detention services for excludable aliens arriving on commercial aircraft and commercial vessels.

(10) Commercial carriers shall continue to be responsible for detention expenses of excludable aliens until December 1, 1986.

Dated: November 12, 1986.

H.F. Sylvester,

Associate Commissioner, Management, Immigration and Naturalization Service.

[FR Doc. 86-25905 Filed 11-14-86; 8:45 am]

BILLING CODE 4410-10-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee for Computer and Computation Research; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463 as amended, the National Science Foundation announces the following meeting:

Name: Advisory Committee for Computer and Computation Research.

Date and Time: December 4, 1986, 9:00 a.m. to 5:30 p.m.; December 5, 1986, 9:00 a.m. to 3:00 p.m.

Place: Room 540, National Science Foundation, 1800 G Street NW, Washington, DC 20550.

Type of Meeting: All Open—December 4, Open—9:00 a.m. to 5:30 p.m.; December 5, Open—9:00 a.m. to 3:00 p.m.

Contact Person: Kent K. Curtis, Division Director, Division of Computer Research, Room 304, National Science Foundation, 1800 G Street NW., Washington, DC 20550, Telephone: (202) 357-9747. Anyone planning to attend this meeting should notify Mr. Curtis no later than December 1, 1986.

Purpose of Committee: To provide advice and recommendations concerning support of Computer Research.

Summary Minutes: May be obtained from the contact person at the above address.

Advisory Committee For Computer and Computation Research—Agenda

Thursday, December 4, 1986, Room 540—9:00 a.m. to 5:30 p.m.—Open

9:00 a.m.—Announcements and Review of Agenda, Kent Curtis
9:15 a.m.—Directorate status and plans—Gordon Bell
10:00 a.m.—Director's quarterly review—Ken Kennedy
10:30 a.m.—Hopcroft Report—John Hopcroft
12:00 Noon—Working Lunch
1:00 p.m.—CER Review—Nico Habermann and other
(a) Update and recent events—Kent Curtis
(b) Habermann Report—Nico Habermann
(c) Discussion
3:30 p.m.—Kosaraju Report—Rao Kosaraju
4:30 p.m.—Opportunities Report—Ken Kennedy
5:30 p.m.—Recess

Friday, December 5, 1986, Room 540—9:00 a.m. to 3:00 p.m.—Open

9:00 a.m.—Discussion: Large project initiatives to support software engineering and parallelism goals?—Ken Kennedy
10:30 a.m.—Discussion: Undergraduate Education in Computer and Information Science and Engineering—Robert Sedgewick
12:00 Noon—Working Lunch
1:00 p.m.—CISE Instrumentation Program—Al Thaler
1:30 p.m.—Committee Business
3:00 p.m.—Adjourn

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 86-25799 Filed 11-14-86; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Ethics and Values Studies; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Ethics and Values Studies (formerly the Advisory Committee for Ethics and Values in Science and Technology).

Date and Time: December 8th, 1986, 8:30 a.m. to 6:00 p.m.; December 9th, 1986, 8:30 a.m. to 2:00 p.m.

Place: Room 1243, National Science Foundation, 1800 G Street NW., Washington, DC.

Type of Meeting: Part Open—Closed December 8th, 1986, 8:30 a.m. to 6:00 p.m.; Open December 9th, 1986, 8:30 a.m. to 2:00 p.m.

Contact Person: Dr. Rachelle Hollander, Coordinator, Ethics and Values Studies, National Science Foundation, Washington, DC 20550, Telephone 202/357-9894.

Summary Minutes: May be obtained from the contact person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for research and related activities in this field.

Agenda: Open—General discussion of the current status and future for Ethics and Values Studies. Closed—To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemption (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 86-25800 Filed 11-14-86; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Geography and Regional Science; Meeting

In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National Science Foundation announces the following meeting:

Name: Advisory Panel for Geography and Regional Science.

Date and Time: December 4-5, 1986, 8:30 a.m. to 5:00 p.m., Closed.

Place: Room 543, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Ronald F. Abler, Program Director, Geography and Regional Science, National Science Foundation, Washington, DC 20550, Telephone (202) 357-7326.

Purpose of Advisory: To provide advice and recommendations concerning research in Geography and Regional Science.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

Authority To Close Meeting: This determination was made by the Committee

Management Officer pursuant to provisions of Section 10(d) of Pub. L. 92–463. The Committee Management Officer was delegated the authority to make such determinations by the Director, NSF, on July 6, 1979.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 86–25801 Filed 11–14–86; 8:45 am]

BILLING CODE 7555–01–M

Advisory Panel for Law and Social Science; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Law and Social Science.

Date/Time: December 5, 6, 1986: 9:00 a.m. to 6:00 p.m. each day.

Place: Room 523, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. Felice J. Levine, Program Director, Law and Social Science, Room 316, National Science Foundation, Washington, DC 20550, Telephone (202) 357–9567.

Purpose of Panel: To provide advice and recommendations concerning support for research in Law and Social Science.

Agenda: Review and evaluate research and proposals and projects as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 86–25802 Filed 11–14–86; 8:45 am]

BILLING CODE 7555–01–M

Advisory Committee for Microelectronic Information Processing Systems; Determination of Establishment

The Assistant Director for Computer and Information Science and Engineering has determined that the establishment of the Advisory Committee for Microelectronic Information Processing Systems is necessary and in the public interest in connection with the performance of duties imposed upon the Director, National Science Foundation (NSF), and other applicable law. This determination follows consultation with the Committee Management Secretariat, General Services Administration.

Name of Committee: Advisory Committee for Microelectronic Information Processing Systems.

Purpose: To provide advice, recommendations, and oversight concerning support for research and research-related activities in the area of Microelectronic Information Processing Systems. Additionally, in some cases, the Committee may be called upon to advise on the merit of proposals for research and research-related activities.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 86–25798 Filed 11–14–86; 8:45 am]

BILLING CODE 7555–01–M

Permits Issued Under the Antarctic Conservation Act of 1978

AGENCY: National Science Foundation.

ACTION: Notice of permits issued under the Antarctic Conservation Act of 1978, Pub. L. 95–541.

SUMMARY: The National Science Foundation (NSF) is required to publish notice of permits issued under the Antarctic Conservation Act of 1978. This is the required notice of permits issued.

FOR FURTHER INFORMATION CONTACT: Charles E. Myers, Permit Office, Division of Polar Programs, National Science Foundation, Washington, DC 20550.

SUPPLEMENTARY INFORMATION: On October 1, 1986, the National Science Foundation published a notice in the **Federal Register** of permit applications received. On November 7, 1986 permits were issued to: John L. Bengston; Stephen Green; Gerald L. Kooyman; Ronald Kuntz; David Lore; John McWethy; and Robert Martin.

Charles E. Myers,

Permit Office, Division of Polar Programs.

[FR Doc. 86–25892 Filed 11–14–86; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50–348 and 50–364]

Environmental Assessment and Finding of No Significant Impact; Alabama Power Co.

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of an exemption from the requirements of Appendix R to 10 CFR Part 50 to Alabama Power Company, (the licensee), for the Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2, located near the City of Dothan, Alabama.

Environmental Assessment

Identification of Proposed Action: The exemption would permit alternatives to the technical requirements of Appendix R concerning certain specifically identified fire areas in Farley Unit Nos. 1 and 2.

The exemption is responsive to the licensee's application for exemption dated October 18, 1985, supplemented January 27, and July 16, 1986.

The Need for the Proposed Action: The proposed exemption is needed because the features described in the licensee's request regarding the existing fire protection at the plant for these items are the most practical means for meeting the intent of Appendix R and literal compliance would not significantly enhance the fire protection capability.

Environmental Impacts of the Proposed Action: The proposed exemption and modifications to be made will provide a degree of fire protection that is equivalent to that required by Appendix R for the affected areas of the plant such that there is no increase in the risk of fires at this facility. Consequently, the probability of fires has not been increased and the post-fire radiological releases will not be greater than previously determined nor does the proposed exemption otherwise affect radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with this proposed exemption.

With regard to potential non-radiological impacts, the proposed exemption involves features located entirely within the restricted area as defined in 10 CFR Part 20. It does not affect non-radiological plant effluents and has no other environmental impact. Therefore, the Commission concludes that there are no significant non-radiological environmental impacts associated with the proposed exemption.

Alternatives to the Proposed Action: Since the Commission has concluded there is no measurable environmental impact associated with the proposed exemption, any alternatives with equal or greater environmental impact need not be evaluated. The principal alternative to the exemption would be to require rigid compliance with section III.G of Appendix R requirements. Such action would not enhance the protection of the environment and would result in unjustified costs for the licensee.

Alternative Use of Resources: This action involves no use of resources not previously considered in the Final

Environmental Statement (construction permit and operating license) for the Joseph M. Farley Nuclear Plant, Unit Nos. 1 and 2.

Agencies and Persons Consulted: The NRC staff reviewed the licensee's request and did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed exemption.

Based upon the foregoing environmental assessment, we conclude that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the application for exemption dated October 18, 1985, supplemented January 27, and July 16, 1986, which is available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Local Public Document Room, located at the George S. Houston Memorial Library, 212 W. Burdeshaw Street, Dothan, Alabama.

Dated at Bethesda, Maryland, this 6th of November, 1986.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, PWR Project Directorate No. 2, Division of PWR Licensing-A.

[FR Doc. 86-25906 Filed 11-14-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Regional and I&E Programs; Meeting

The ACRS Subcommitte on Regional and I&E Programs will hold a meeting on December 2, 1986, Region III Office, 799 Roosevelt Road, Glen Ellyn, IL.

The entire meeting will be open to public attendance.

The agenda for subject meeting shall be as follows:

Tuesday, December 2, 1986—8:30 a.m. until the conclusion of business

The Subcommittee will review the activities of the Office of Inspection and Enforcement which are under the control of the NRC Regional Offices. This meeting will focus on the activities under the purview of the Region III Office.

Oral statements may be presented by members of the public with concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee, along with any of its consultants who may be present, may exchange preliminary views regarding matters to be considered during the balance of the meeting.

The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff, its consultants, and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Paul Boehnert (telephone 202/634-3267) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: November 12, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-25894 Filed 11-14-86; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Reactor Safeguards Subcommittee on Waste Management; Meeting

The ACRS Subcommittee on Waste Management will hold a meeting on December 4 and 5, 1986, Room 1046, 1717 H Street, NW., Washington, DC.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, December 4, 1986—8:30 a.m. until the conclusion of business

Friday, December 5, 1986—8:30 a.m. until conclusion of business

The Subcommittee will review the following radioactive waste management topics: (1) The waste management aspects of the FY 1988 NRC safety research program; (2) the NRC Staff's review of DOE's Final Environmental Assessment for the five nominated geologic repository sites; (3) assessing compliance with the EPA Standard for HLW repositories; (4) rulemaking to conform Part 60 to the EPA Standard; (5) States' implementation of the Low-Level Radioactive Waste Policy Amendments Act of 1985; (6) alternatives to shallow land burial; and (7) the safety assessment of alternatives to shallow land burial.

Oral statements may be presented by members of the public with the concurrence of the Subcommittee Chairman; written statements will be accepted and made available to the Committee. Recordings will be permitted only during those poritons of the meeting when a transcript is being kept, and questions may by asked only by members of the Subcommittee, its consultants, and Staff. Persons desiring to make oral statements should notify the ACRS staff member named below as far in advance as is practicable so that appropriate arrangements can be made.

During the initial portion of the meeting, the Subcommittee may exchange preliminary views regarding matters to be considered during the balance of the meeting. The Subcommittee will then hear presentations by and hold discussions with representatives of the NRC Staff and other interested persons regarding this review.

Further information regarding topics to be discussed, whether the meeting has been cancelled or rescheduled, the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by a prepaid telephone call to the cognizant ACRS staff member, Mr. Owen S. Merrill (telephone 202/634-1413) between 8:15 a.m. and 5:00 p.m. Persons planning to attend this meeting are urged to contact the above named individual one or two days before the scheduled meeting to be advised of any changes in schedule, etc., which may have occurred.

Dated: November 12, 1986.

Morton W. Libarkin,

Assistant Executive Director for Project Review.

[FR Doc. 86-25893 Filed 11-14-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 50-338]

Virginia Electric and Power Co., et al.; Withdrawal of Application for Amendment to Facility Operating License

The United States Nuclear Regulatory Commission (the Commission) has granted the request of Virginia Electric

and Power Company, et al. (the licensee) to withdraw their January 17, 1986 application of the North Anna Plant, Unit No. 1 (NA-1), located in Louisa County, Virginia.

The proposed amendment would have permitted the operation of NA-1 at 2775 Mwt with up to 7 percent of the steam generator tubes plugged. The Commission issued a Notice of Consideration of Issuance of Amendment in the **Federal Register** on March 7, 1986 (51 FR 8057). By letter dated September 30, 1986, the licensee requested, pursuant to 10 CFR 2.107, permission to withdraw their application for the proposed amendment. The basis for withdrawal of the amendment request was that the issuance of Amendment No. 84 on August 25, 1986 rendered the licensee's application of January 17, 1986, null and void. The Commission has considered the licensee's September 30, 1986 request and has determined the permission to withdraw the January 17, 1986 application for amendment should be granted.

For further details with respect to this action, see (1) the application for amendment dated January 17, 1986, (2) the licensee's letter dated September 30, 1986, withdrawing the application for amendment, and (3) our letter dated November 5, 1986. All of the above documents are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., and at the Board of Supervisors Office, Louisa County Courthouse, Louisa, Virginia 23093 and the Alderman Library Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Dated at Bethesda, Maryland, this 5th day of November, 1986.

For the Nuclear Regulatory Commission.

Lester S. Rubenstein,

Director, PWR Project Directorate No. 2, Division of PWR Licensing-A, Office of Nuclear Reactor Regulation.

[FR Doc. 86-25908 Filed 11-14-86; 8:45 am]

BILLING CODE 7590-01-M

[Docket No. 72-2; 50-280 and -281]

Virginia Electric and Power Co.; Issuance of Amendment to Materials License SNM-2501

The U.S. Nuclear Regulatory Commission (the Commission) has issued Amendment No. 1 to Materials License No. SNM-2501 held by the Virginia Electric and Power Company for the receipt and storage of spent fuel at the Surry Independent Spent Fuel Storage Installation, located on the Surry Power Station site, Surry County, Virginia. The amendment is effective as of the date of issuance.

The amendment revises the Technical Specifications to correct the description of the operating characteristics of the storage cask interlid pressure switch. The purposes of this specification is to provide the pressure level at which the pressure switch alarm system will initiate. No change to the pressure switch limit set in the Technical Specifications is made, and no change in safety margins occurs.

The application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter 1, which are set forth in the license amendment. Prior public notice of the amendment was not required since the amendment does not involve a significant hazards consideration.

The Commission has determined that the issuance of the amendment will not result in any significant environmental impact and that, pursuant to 10 CFR 51.22(c)(11), an environmental assessment need not be prepared in connection with issuance of the amendment.

For further details with respect to this action, see (1) the application for amendment dated October 10, 1986, and (2) Amendment No. 1 to Materials License No. SNM-2501, and (3) the Commission's letter to the licensee dated November 10, 1986. All of these items are available for public inspection at the Commission's Public Document Room, 1717 H Street, NW., Washington, DC, and at the Local Public Document Room at the Swem Library, College of William and Mary, Williamsburg, Virginia, 23185.

Dated at Silver Spring, Maryland, this 10th day of November 1986.

For the U.S. Nuclear Regulatory Commission.

Leland C. Rouse,

Chief, Advanced Fuel and Spent Fuel Licensing Branch, Division of Fuel Cycle and Material Safety.

[FR Doc. 86-25907 Filed 11-14-86; 8:45 am]

BILLING CODE 7590-01-M

SECURITIES AND EXCHANGE COMMISSION

Forms Under Review of Office of Management and Budget

Agency Clearance Officer: Kenneth A. Fogash, (202) 272-2412.

Upon Written Request Copy Available from: Securities and Exchange Commission, Office of Consumer Affairs, Washington, DC 20549.

Revision

Regulation 14A (No. 270-56) and 14C (No. 270-57) Notice is hereby given that pursuant to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*), the Securities and Exchange Commission has submitted for OMB approval proposed revisions to Securities Exchange Act proxy rules and related amendments.

Submit comments to OMB Desk Officer: Ms Sheri Fox, (202) 395-3785, Office of Information and Regulatory Affairs, Room 3235 NEOB, Washington, DC 20503.

Jonathan G. Katz,

Secretary.

November 10, 1986.

[FR Doc. 86-25827 Filed 11-14-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. IC-15405; File No. 812-6461]

Freedom Investment Trust; Exemptive Application Relating to Contingent Deferred Sales Loads

November 7, 1986.

Notice is hereby given that Freedom Investment Trust ("Applicant"), Three Center Plaza, Boston, MA 02108, filed an application on August 19, 1986, and amendments thereto on October 15 and November 4, 1986, for a Commission order pursuant to section 6(c) of the Investment Company Act of 1940 ("Act") amending an existing order (Rel. No. IC-15118, May 28, 1986 ("Order")) to the extent necessary to exempt Applicant from the provisions of (i) sections 2(a)(32), 2(a)(35), 22(c) and 22(d) of the Act and Rule 22c-1 thereunder to permit assessment of a contingent deferred sales load ("CDSL") on certain redemptions of shares of Freedom Gold & Government Trust ("Gold Series"), Freedom Regional Bank Fund ("Bank Series") and Freedom Government/Index Option Fund ("Option Series") (collectively, "Non-Exempt Series"); and (ii) section 22(d) of the Act to permit certain waivers, deferrals, or reductions of any CDSL applicable to the Non-Exempt Series, Freedom Equity Value Fund ("Equity"), Freedom Government Plus Fund ("Government") and any subsequent similar series of Applicant. (Equity, Government and any subsequent similar series of Applicant are hereinafter collectively referred to as "Exempt Series.") All interested persons are referred to the application

on file with the Commission for a statement of the representations contained therein, which are summarized below, and to the Act and the rules thereunder for the text of the applicable provisions.

Applicant represents that it is registered under the Act as a diversified, open-end, management investment company. Applicant's shares are offered to the public through broker-dealers pursuant to distribution agreements with its principal underwriter, Tucker, Anthony & R.L. Day, Inc. ("Distributor"). Applicant's investment adviser, Tucker Anthony Management Corporation ("Adviser"), and Distributor are subsidiaries of John Hancock Mutual Life Insurance Company.

Applicant proposes to offer shares in the Non-Exempt Series without the imposition of a front-end sales load and proposes intstead to impose a CDSL upon redemption, with certain exceptions described in the application. Applicant represents that no CDSL will be imposed upon redemption on amounts derived from: (1) Increases in the value of an account, including reinvestment of dividend income and capital gains distributions, above the total cost of shares being redeemed due to increases in the net asset value per share of the Series; or (2) purchases made more than three years prior to the redemption. Further, if the current net asset value of the shares redeemed has declined due to performance of the concerned Series, the CDSL will be applied to the current value rather than the purchase price. Applicant states that the amount of the CDSL, if any, will depend upon the year during which the shares being redeemed were purchased; i.e., the CDSL will be 3.0% if redemption occurs within the first twelve-months of purchase, 2.0% if redemption occurs during the next twelve-month period, 1.0% redemption occurs during the third twelve-month period, and 0% if redemption occurs thereafter. The CDSL imposed upon redemption would not, in the aggregate, exceed 3% of the aggregate purchase payments made by the investor. Applicant also states that in determining the amount of the CDSL, shares held the longest will be assumed to be the first redeemed. According to Applicant, this will result in any CDSL being imposed at the lowest possible rate.

Applicant represents that the Non-Exempt Series propose to finance distribution of their shares pursuant to plans ("Plans") adopted under Rule 12b-1 under the Act. The Plans currently propose that the Gold Series, the Bank Series and the Option Series will accrue daily and pay monthly to Distributor a distribution fee calculated at the rate of .75%, .75% and 50%, respectively, of average daily net assets. Distributor also will receive the proceeds of any unwaived CDSL. Applicant represents that its Board of Trustees, in their periodic review of the Plans, will consider the use by Distributor of revenues raised by the CDSL.

Pursuant to the Order, the Exempt Series may waive, defer or reduce a CDSL in connection with (i) the death or disability of an investor, (ii) distributions from qualified retirement plans, (iii) redemptions by certain affiliates of Applicant, Distributor and Adviser, and by clients of Adviser, (iv) redemptions pursuant to liquidation of an investor's account, (v) redemptions pursuant to systematic withdrawal plans, and (iv) certain exchanges among the Exempt Series. Applicant now requests relief so that any CDSL applicable to the Non-Exempt Series may also be waived, deferred or reduced in similar circumstances, and that any CDSL applicable to the Non-Exempt Series and Exempt Series may be waived or deferred in connection with (a) additional redemptions by certain affiliates of Applicant, (b) redemptions by certain advisory clients of Tucker Anthony Advisers (a division of Distributor), and (c) certain exchanges among the Non-Exempt Series and between the Non-Exempt Series and Exempt Series. (Any applicable CDSL will be payable when a shareholder redeems shares acquired as a result of an exchange rather than at the time of exchange. The amount of the CDSL will be calculated from the date of the initial purchase of the exchanged shares.)

Applicant also proposes to reduce any CDSL otherwise applicable to the Non-Exempt Series and Exempt Series by one-half or three-fourths on redemptions of shares when, at the time of purchase of such shares, the shareholder owned shares in any one or more of Applicant's CDSL Series having an aggregate net asset value of at least $2,000,000 or $4,000,000 respectively. Applicant states that the following groups of shareholders may aggregate their purchases in order to qualify for a reduced CDSL: (i) An individual, his or her spouse, and his or her children under the age of 21, purchasing securities for his, her or their account; (ii) any organized group of persons which has been in existence for more than six months and has some purpose other than the purchase of redeemable securities of registered investment companies at a discount; (iii) a corporation, partnership or trust, other corporations, partnerships or trusts controlling, controlled by or under common control therewith, and any employee benefit plan or plans covering employees of one or more of such affiliated entities; and (iv) one or more trusts established by the same grantor. In the event Applicant contemplates any change in the scheduled percentage or reduction of the CDSL or the specified dollar value of shares required to qualify for a reduction, or in the categories of qualifying shareholders, Applicant will notify the Commission of any such change, and unless the Commission objects to it within 30 days, such change will become part of the order issued in this matter.

Applicant represents that it will comply with the provisions of Rule 22d-1 under the Act in connection with the proposed waivers, deferrals, and reductions of the CDSL.

Notice is further given that any interested person wishing to request a hearing on the application may, not later than December 2, 1986, at 5:30 p.m., do so by submitting a written request setting forth the nature of his interest, the reasons for his request, and the specific issues, if any, of fact or law that are disputed, to the Secretary, Securities and Exchange Commission, Washington, DC 20549. A copy of the request should be served personally or by mail upon Applicant at the address stated above. Proof of service (by affidavit or, in the case of an attorney-at-law, by certificate) shall be filed with the request. After said date, an order disposing of the application will be issued unless the Commission orders a hearing upon request or upon its own motion.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-25828 Filed 11-14-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23779; File Nos. 4-218 and S7-433]

Joint Industry Plan; Filing of Amendments to the Consolidated Quotation Plan and the Consolidated Tape Association Plan Relating to Other Services and Fee Consolidation

The Participants in the Consolidated Quotation Plan ("CQ Plan") and the Consolidated Tape Association Plan ("CTA Plan") on October 10, 1986,

submitted copies of an amendment [1] to the Plan governing the operation of the consolidated quotation reporting system ("CQS") and the Plan governing the operation of the consolidated transaction system ("CTS").[2]

I. Description of the Amendment

The purpose of the amendment is to restructure the Network A [3] fees for professional subscribers, create contractual and fee provisions for "Other Services" (services that differ from conventional services), and to establish a single, lower fee for receipt of Network A data by nonprofessional subscribers. The amendment also makes several conforming and technical changes.

A. Professional Fee Consolidation

Since the inception of consolidated reporting of prices and quotes, the CTA Plan and the CQ Plan have charged separately for last sale data and quote data. In addition, the CTA Plan has charged separately for last sale interrogation and ticker display. For each of the three types of information (last sale interrogation, last sale ticker and quote interrogation), the plans have calculated charges based on the number of terminals or "devices" at each location. The plans have charged a higher fee for the first device at each location, and a much lower fee for each extra device. The Participants believe that "the consequence has been a complicated rate structure that technological change has made increasingly cumbersome to administer for both the [p]articipants and data recipients alike." [4]

The amendment is designed to provide a more simplified structure, with a single fee for consolidated data. As a result, subscribers who today receive only last sale or quote data will pay the same fee as those who receive both types of data. Similarly, subscribers who today receive last sale data through only interrogation devices or only ticker display devices will pay the same fee as those who receive last sale data through a device having both functions. A subscriber under the new structure would pay an incrementally decreasing charge per unit based upon the total number of its devices receiving the consolidated information.

The amendment is designed to be revenue-neutral for the Participants. The Participants, however, expect that the simplification of recordkeeping and reporting requirements will benefit the vendors and subscribers distributing and using market data.

B. Other Services

The amendment would enable the Participants to alter the CTA Plan's vendor agreements as they apply to broker dealers and vendors offering "Other Services", [5] and to reduce or even eliminate contract requirements for their customers. The amendment also substantially reduces the charges applicable to Other Services.

The Participants believe this new fee and contract category will permit wider dissemination of market data by making it more readily, and less expensively, available to investors by accommodating innovative market data services that do not fit equitably within the existing charges and contract structures.

C. Nonprofessional Fee Consolidation and Reduction

The amendment would consolidate the present monthly fees payable by vendors in respect of nonprofessional Network A subscribers of $7.50 under the CTA Plan and $6.00 under the CQ Plan to a single fee of $4.00. The Participants expect this change to make sophisticated market data services more widely available to investors.

D. Miscellaneous Changes

The amendments make several other modifications that the charges described above necessitate or that address technical or administrative issues.

Because the proposed unitary professional fee structure eliminates two distinct sources of revenue for the CTA and CQS, the amendments accommodate this by combining the two plans' financial calculations and reporting. The amendment also reconciles the two plans' disparate treatment of bond data revenue. In addition, the amendment would extend the newly-combined and reduced CTA/CQ fee for nonprofessional subscribers to cover last sale ticker receipts. This avoids a nonprofessional having to pay the full professional fee of $120.00 for ticker receipt. If, however, the nonprofessional subscriber takes a ticker feed directly from CTA, a monthly fee of $30.00 would apply (in addition to the facilities fee and $4.00 non-professional fee).

Two changes fall into the category of technical and administrative changes. First, the amendment redefines "direct" high-speed line access to simply mean receipt directly from the plan processor. The redefinition is intended to eliminate the line-drawing problems under the current definition, which requires the NYSE staff to analyze whether data is significantly reprocessed. Second, the amendment recognizes that, under Rule 11Aa3–2, some plan amendments may become effective upon filing.

E. CQ Plan Changes

The changes made by the CTA Plan amendment also apply to the CQ Plan amendment except to the extent they pertain to matters that are unique to last sale information, such as the use of a low speed line. The CQ Plan amendment makes two changes that are not made by the CTA Plan amendment, but that conform the CQ Plan to the CTA Plan. First, the CQ Plan makes clear that nonprofessional fees can be increased by a two-thirds vote. Second, the amendment states that the CQ Plan participants must pay high speed line access charges.

F. Implementation Phases

The amendment would be implemented in two phases. First, the professional fee restructuring requires substantial changes to the NYSE's billing system. The Participants expect to implement the new professional fees during the first half of 1987 after the NYSE makes necessary software changes. Second, certain larger subscribers who face a substantial change in fees under the new structure will have the new fees phased in under "transition rules", that were filed with the amendment. These rules hold users of 100 or more devices to a 10 percent change, up or down, from what their payments would be under the current schedules during the first year after implementation. The rules ease these users into the balance of the increase/decrease over the second and third year by a monthly increment of 1/24th of the excess above 10 percent.

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[1] These amendments were submitted pursuant to Rule 11Aa3–2 under the Securities Exchange Act of 1934 ("Act"). The CTA amendments also were submitted pursuant to Rule 11Aa3–1 under the Act.

[2] The CQ Plan and subsequent amendments are contained in File No. 4–281. The Commission approved the CQ Plan in Securities Exchange Act Release No. 16518 (January 22, 1980), 45 FR 6528. The CTA Plan and subsequent amendments are contained in File No. S7–433. The Commission approved the 1980 Restated and Amended CTA Plan in Securities Exchange Act Release No. 16983 (July 16, 1985), 45 FR 49414.

[3] "Network A" refers to the facilities used to disseminate last sale and quote information for securities listed on the New York Stock Exchange ("NYSE").

[4] Letter from John F. Cipriano, Director, Market Data Service, NYSE, to Jonathan G. Katz, Secretary, SEC (October 9, 1986) ("CTA letter").

[5] An example of "Other Services" is a broker-dealer's system that uses a computer-generated voice to answer customer telephone requests for market data and current news about securities.

II. Request for Comment

Interested persons are invited to submit written comments on the amendment. Persons submitting comments should file six copies with the Secretary of the Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission and related items, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. All communications should refer to File Nos. 4–281 and S7–433 and should be submitted by December 17, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30–3(a) (27) and (29).

Dated: November 6, 1986.

Jonathan Katz,

Secretary.

[FR Doc. 86–25900 Filed 11–14–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 34–23782; File No. MSTC–86–05]

Self-Regulatory Organizations; Midwest Securities Trust Co.; Order Approving Proposed Rule Change

The Midwest Securities Trust Company ("MSTC") on August 11, 1986, filed a proposed rule change (File No. SR–MSTC–86–5) under section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"). The Commission published notice of the proposal in the **Federal Register** on August 27, 1986, to solicit public comment.[1] No public comment was received. This Order approves the proposal.

The proposed rule change would amend Article III, section 2, and Article V, sections 2, 5, and 6 of MSTC's By-Laws regarding MSTC's Board of Directors. First, the proposal would amend MSTC By-Law Article III, section 2 to make MSTC's President an *ex-officio* member of MSTC's Board of Directors. Second, the proposal would divide MSTC's 17 remaining directors into three classes, with one class of five directors and two classes of six directors. The By-Law currently divides all 18 directors into three equal classes.

The proposal would amend Article V of MSTC's By-Laws to provide that: (1) MSTC may choose its President from outside MSTC's Board of Directors; and (2) the Chairman and Vice Chairman of the Board would continue as Board members and would lose their status as *ex-officio* Board members. The By-Law currently requires that the President, Chairman, and Vice Chairman be chosen from Board members and provides that the Chairman and Vice Chairman are *ex-officio* Board members with a right to vote.

MSTC states that the proposed rule change would correct discrepancies in its By-Laws. MSTC characterizes the change as technical and states that it would not affect the existing structure of its Board. MSTC further states that the proposed rule change is consistent with section 17A of the Act, noting that the proposal would help to insure a fair representation of MSTC participants in the selection of MSTC directors.

The Commission agrees that the proposed rule change is consistent with the Act and that it should be approved. First, the Commission believes that the proposal clarifies terms governing the service of MSTC's Board members. The proposal removes a source of potential confusion by eliminating duplicative text. For example, the current By-Laws state that MSTC's Chairman and Vice Chairman must be selected from among the MSTC Board members, *i.e.*, that they first must be Board Members (with the implicit right to vote), and yet, after their selection, they remain on the board as *ex-officio* members with the right to vote. Second, the proposal is consistent with MSTC's fair representation duties under the Act. Indeed, in our view, the proposal in no way reduces the fair representation responsibilities of the MSTC Board or changes the manner in which MSTC directors are nominated and elected. *See* MSTC By-Laws, Article 3, sections 2 and 4. A Nominating Committee of MSTC participants still will be elected at MSTC's annual meeting and empowered to select directors with a view toward providing fair representation of the interests of all MSTC participants. Finally, the proposal would enable MSTC's Board to select MSTC's President from all sources. Currently, the Board's search authority extends only to those 18 persons already on MSTC's Board. This expanded search authority should help to ensure that, whenever MSTC's President must be chosen, MSTC's Board will have a pool of highly qualified candidates for the position.

It is therefore ordered, pursuant to section 19(b)(2) of the Act, that the proposed rule change (SR–MSTC–86–5) be, and hereby is, approved.

For Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: November 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–25901 Filed 11–14–86; 8:45 am]

BILLING CODE 8010–01–M

[Release No. 23780; File No. SR–NASD–86–32]

Self-Regulatory Organizations; Proposed Rule Change by National Association of Securities Dealers, Inc. Relating to an Amendment to Schedule G of the NASD By-Laws.

Pursuant to section 19(b) of the Securities Exchange Act of 1934, 15 U.S.C. 78s(b)(1), notice is hereby given that on October 29, 1986, the National Association of Securities Dealers, Inc. filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed amendment to section 2(a) of Schedule G of the NASD By-Laws will require transactions in listed securities executed off an exchange in the United States between 4:00 and 4:30 p.m. Eastern Time to be reported to the Consolidated Tape Association ("CTA") through the NASDAQ System.

II. Self-Regulatory Organization's Statements Regarding the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change. The text of these statements may be examined at the places specified in Item IV, below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B), and (C), below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed amendment to section 2(a) of Schedule G of the NASD By-Laws is to standardize procedures for reporting transaction in listed securities executed off an exchange in the United States between the hours of 4:00 and 4:30 p.m. Eastern Time to CTA through the

[1] Securities Exchange Act Release No. 23546 (August 21, 1986), 51 FR 30603 (August 27, 1986).

NASDAQ System. Although NASDAQ transaction reporting facilities are currently available, upon request, for reporting transactions in listed securities to CTA between the hours of 4:00 and 4:30 p.m. Eastern Time, the majority of NASD members utilize Form T to report such trades. Information from Form T, which is submitted on a weekly basis, is not included in daily market activity summaries. Therefore, requiring transactions in listed securities executed between 4:00 and 4:30 p.m to be reported to CTA through NASDAQ would not result in the dissemination of more complete data on daily trading activity to the wire services and print media.

Because transactions in exchange-listed securities executed outside exchange trading hours are considered to be over-the-counter transactions, the proposed amendment will be applicable to member firms that are also members of a national securities exchange as well as sole NASD member firms. The proposed amendment would not, however, require the reporting of transactions in listed securities executed abroad after the close.

The proposed amendment is consistent with section 15A(b)(6) of the Securities Exchange Act of 1934, which provides that the rules of a registered securities association shall be designed to promote just and equitable principles of trade, foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, remove impediments to and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The NASD does not believe that the proposed amendment to Schedule G will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Securities Exchange Act of 1934.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC. 20549. Copies of the submissions, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the above-mentioned self-regulatory organization. All submissions should refer to the file number in the caption above and should be submitted by December 8, 1986.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86-25902 Filed 11-14-86; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-23781; File No. SR-OCC-86-20]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Options Clearing Corporation

On October 3, 1986, the Options Clearing Corporation ("OCC") filed a proposed rule change with the Commission under section 19(b)(1) of the Securities Exchange Act of 1934 (the "Act"), 15 U.S.C. 78s(b)(1). The Commission is publishing this Notice to solicit comment on the proposal.

The proposed rule change amends OCC By-Laws and Rules and adds new Interpretations and Policies to those Rules to align settlement day for expiring foreign currency option exercises and assignments with delivery day for the International Monetary Market's ("IMM") foreign currency futures contracts.[1] Specifically, OCC By-Law Article XV, section 1(m) is amended to provide that, with respect to expiring foreign currency options, the term "business day" may include the Sunday following expiration date for the purposes of OCC Rules 1602, 1604 and 1605,[2] and may exclude the last day of trading preceding such expiration date for purposes of OCC Rule 1605. This change enables OCC to process expiration Saturday's exercise notices on Sunday and to defer until Sunday the processing of exercise notices tendered on the Thursday preceding expiration.[3]

Additionally, the proposed rule change revises OCC Rule 602A. That Rule concerns Clearing Member margin requirements for nonequity options. The proposal amends paragraph (f)(2) of that Rule to clarify that foreign currency Clearing Members' net exercise settlement obligations from expiring options will be included in OCC's margin calculations beginning with the business day following the date on which an Exercise Settlement Report is issued. This insures that exercised long positions and assigned short positions in foreign currency options are margined beginning on Monday. Previously, the language of Rule 602A required margin beginning on the second business day following the date of exercise, which may or may not have been Monday.

The rule change also amends several OCC Rules in Chapter XVI and adds new Interpretations and Policies to those Rules. First, a new Interpretation and Policy is added to Rule 1602.

That Interpretation and Policy provides that the Sunday following expiration date for foreign currency options shall be deemed to be a

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[1] OCC currently has pending before the Commission a proposed rule change that would enable an OCC Clearing Member that is also a Clearing Member of OCC's commodities futures clearing subsidiary, the Intermarket Clearing Corporation ("ICC"), to cross-net its OCC exercise and assignment settlement obligations in foreign currency options with its ICC settlement obligations in futures contracts on the same foreign currency settling on the same date. *See* File No. SR-OCC-86-14 published for comment in Securities Exchange Act Release No. 23452 (July 22, 1986), 51 FR 26965 (July 28, 1986).

[2] OCC By-Law Article XV, section 1(i), defines expiration date for foreign currency options as the Saturday immediately preceding the third Wednesday of the expiration month of such option contract.

[3] Foreign currency option assignments, however, still will occur on Friday morning pursuant to OCC Rules 803 and 1602.

business day for purposes of issuing Exercise and Assignment Activity Reports reflecting the exercise and assignment of options that were exercised on expiration date.

Second, the proposal revises OCC Rule 1604 regarding the exercise settlement date for foreign currency options. Amended Rule 1604(a) clarifies that exercise settlement date will be the third business day following the business day after the day on which an exercise notice regarding such option was tendered to OCC.[4] The new Interpretation and Policy to Rule 1604 clarifies that the Sunday following the expiration date of a foreign currency option is a business day for purposes of determining the exercise settlement date for options exercised on expiration date. Moreover, Rule 1604(b) is amended to provide that the OCC Board of Directors may advance the exercise settlement date for foreign currency options to meet unusual conditions or whenever such action is in the public interest.[5] Previously, OCC Directors could only extend or postpone exercise settlement date. The Rule, as amended, enables OCC to maintain a Wednesday settlement date even if there is a bank holiday in the country of origin on the intervening Monday or Tuesday.[6]

Finally, the proposal adds a new Interpretation and Policy to Rule 1605, which concerns the allocation of exercise settlement obligations. New Interpretation and Policy 2 clarifies that, for expiring foreign currency options, the Sunday following expiration date will be deemed a business day and the last day of trading will be deemed not to be a business day. In addition, the Exercise Settlement Report issued on Sunday following expiration date will include settlement obligations in respect of long and short positions in expiring foreign currency options resulting from exercises effected on the business date preceding the last trading day, as well as exercises effected on expiration date.

OCC states that the proposed rule change is consistent with the requirements of section 17A of the Act in that it will promote the public interest by clarifying OCC's Rules to reflect actual practice and will continue to facilitate the investing public's use of the foreign currency options and futures markets. OCC believes that unifying expiring foreign currency option exercise and assignment settlement dates and delivery dates for foreign currency futures will result in fewer actual settlements and lower costs to Clearing Members.

The foregoing has become effective pursuant to section 19(b)(3)(a) of the Securities Exchange Act of 1934 and subparagraph (e) of Securities Exchange Act Rule 19b–4. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of the investors or otherwise in furtherance of the purposes of the Securities Exchange Act of 1934.

Interested persons are invited to submit written data, views are arguments concerning the proposal. Persons making written submissions should file six copies with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the filing, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of the filing will also be available for inspection and copying at the principal office of OCC. All submissions should refer to file number SR–OCC–86–20 and should be submitted by December 8, 1986.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: November 6, 1986.

Jonathan G. Katz,

Secretary.

[FR Doc. 86–25903 Filed 11–14–86; 8:45 am]

BILLING CODE 8010–01–M

[4] This change merely reflects existing practice; settlement generally occurs on Wednesday for options exercised on expiration date or the Thursday preceding expiration date.

[5] OCC would communicate any advance settlement date to Clearing Members in the notice OCC now distributes at expiration reflecting settlement dates and other important information. OCC Directors also may postpone exercise settlement date under this Rule.

[6] IMM futures contracts generally settle on Wednesday even if there is a bank holiday in the country of origin on the intervening Monday or Tuesday.

SMALL BUSINESS ADMINISTRATION

Region III Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region III Advisory Council, located in the geographical area of Clarksburg, West Virginia, will hold a public meeting beginning Thursday, December 4, 1986, at 1:00 p.m. and ending Friday, December 5, 1986 at 12:00 Noon at Oglebay Park, Wheeling, West Virginia to discuss such business as may be presented by members, the staff of the U.S. Small Business Administration, and others attending.

For further information, write or call Marvin P. Shelton, District Director, U.S. Small Business Administration, P.O. Box 1608, Clarksburg, West Virginia 2632–1608 or phone (304) 622–6601.

Jean M. Nowak,

Director, Office of Advisory Councils.

November 7, 1986.

[FR Doc. 86–25917 Filed 11–14–86; 8:45 am]

BILLING CODE 8025–01–M

Region IX Advisory Council Meeting; Public Meeting

The U.S. Small Business Administration Region IX Advisory Council, located in the geographical area of San Francisco, California, will hold a public meeting at 10:00 a.m. on Tuesday, December 2, 1986 in the San Francisco District Office of the Small Business Administration, 211 Main Street, 5th Floor—Room 543, San Francisco, California.

The purpose of the meeting is to discuss such matters as may be presented by members, staff of the U.S. Small Business Administration or others present.

For further information, write or call the Office of District Director, San Francisco District Office, 211 Main Street—4th Floor, San Francisco, California 94105, (415) 974–0642.

Jean M. Nowak,

Director, Office of Advisory Councils.

November 7, 1986.

[FR Doc. 86–25916 Filed 11–14–86; 8:45 am]

BILLING CODE 8025–01–M

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. S–794]

Lykes Bros. Steamship Co., Inc.; Application To Operate a C7–S–95a RO/RO Vessel on its Trade Route 13 From the South Atlantic

Lykes Bros. Steamship Co., Inc. (Lykes) by application dated October 31, 1986, has requested an amendment to Appendix B of Operating-Differential Subsidy Agreement (ODSA), Contract MA/MSB–451 to permit the operation of

a C7–S–95a RO/RO vessel on its Trade Route (TR) 13 from the U.S. South Atlantic.

Appendix B of Lykes Contract MA/MSB–451 states that "[t]he Operator may not operate C7–S–95a vessels from or to U.S. South Atlantic ports on Trade Route 13 (U.S. South Atlantic and Gulf/Mediterranean) without prior notice under section 605(c) of the Merchant Marine Act, 1936, as amended." Lykes currently provides approximately biweekly service on its TR 13 service with three C5–37e Pacer type vessels. Under ODSA Contract MA/MSB–451, Lykes is authorized to make a minimum/maximum of 42/48 sailings per year on TR 13.

Lykes' application stresses that there is no other U.S.-flag RO/RO service from the South Atlantic portion of TR 13. Further, according to Lykes, since Prudential Lines, Inc. has recently ceased all service from the South Atlantic to the Mediterranean, and is unlikely to commence service in the foreseeable future, there is no basis for section 605(c) scrutiny under the transfer and interchange policy, because the capacity of the C7–S–95a RO/RO vessel is reasonably comparable to the vessels authorized to operate on the South Atlantic portion of TR 13, and the proposed employment is in fact, merely a substitution or interchange.

This application may be inspected in the Office of the Secretary, Maritime Administration. Any person, firm, or corporation having any interest in such request and desiring to submit comments concerning the application must file written comments in triplicate with the Secretary, Maritime Administration, Room 7300, Nassif Building, 400 Seventh Street SW., Washington DC 20590. Comments must be received no later than 5:00 p.m. on December 2, 1986. The Maritime Subsidy Board will consider any comments submitted and take such actions with respect thereto as may be deemed appropriate.

(Catalog of Federal Domestic Assistance Program No. 20.804 Operating-Differential subsidies)

By Order of the Maritime Subsidy Board.

Dated: November 10, 1986.

James E. Saari,

Secretary.

[FR Doc. 86–25826 Filed 11–14–86; 8:45 am]

BILLING CODE 4910–81–M

DEPARTMENT OF THE TREASURY

Office of the Secretary

[Supp. to Dept. Circ.—Public Debt Series—No. 36–86]

Treasury Bonds of 2016

Washington, November 7, 1986.

The Secretary announced on November 6, 1986, that the interest rate on the bonds designated Bonds of 2016, described in Department Circular—Public Debt Series—No. 36–86 dated October 30, 1986, will be 7½ percent. Interest on the bonds will be payable at the rate of 7½ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86–25804 Filed 11–14–86; 8:45 am]

BILLING CODE 4810–40–M

[Supp. to Dept. Cir.—Public Debt Series—No. 34–86]

Treasury Notes, Series T–1989

Washington, November 5, 1986.

The Secretary announced on November 4, 1986, that the interest rate on the notes designated Series T–1989, described in Department Circular—Public Debt Series—No. 34–86 dated October 30, 1986, will be 6⅜ percent. Interest on the notes will be payable at the rate of 6⅜ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86–25806 Filed 11–14–86; 8:45 am]

BILLING CODE 4810–40–M

[Supp. to Dept. Cir.—Public Debt Series—No. 35–86]

Treasury Notes, Series D–1996

Washington, November 6, 1986.

The Secretary announced on November 5, 1986, that the interest rate on the notes designated Series D–1996, described in Department Circular—Public Debt Series—No. 35–86 dated October 30, 1986, will be 7¼ percent. Interest on the notes will be payable at the rate of 7¼ percent per annum.

Gerald Murphy,

Fiscal Assistant Secretary.

[FR Doc. 86–25805 Filed 11–14–86; 8:45 am]

BILLING CODE 4810–40–M

UNITED STATES INFORMATION AGENCY

Culturally Significant Objects Imported for Exhibition; Determination

Notice is hereby given of the following determination: Pursuant to the authority vested in me by the act of October 19, 1965 (79 Stat. 985, 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978 (43 FR 13359, March 29, 1978), and Delegation of Authority of June 27, 1985 (50 FR 27393, July 2, 1985), I hereby determine that the objects to be included in the exhibit, "Mounted Oriental Porcelain" (see list [1]), imported from abroad for the temporary exhibition without profit within the United States are of cultural significance. These objects are imported pursuant to loan agreements between the International Exhibitions Foundation and various foreign lenders. I also determine that the temporary exhibition or display of the listed exhibit objects at the Frick Collection, New York, New York, beginning on or about December 2, 1986, to on or about March 1, 1987; the Nelson-Atkins Museum of Art, Kansas City, Missouri, beginning on or about March 28, 1987, to on or about May 24, 1987; and at the Center for the Fine Arts, Miami, Florida, beginning on or about June 13, 1987, to on or about August 23, 1987; is in the national interest.

Public notice of this determination is ordered to be published in the **Federal Register**

Dated: November 13, 1986.

Joseph A. Morris,

General Counsel.

[FR Doc. 86–25955 Filed 11–14–86; 8:45 am]

BILLING CODE 8230–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

[Docket No. 307–1]

Termination of Investigation; Export Performance Requirements in the Automotive Sector on Taiwan

AGENCY: Office of the United States Trade Representative, Executive Office of the President.

ACTION: Notice.

SUMMARY: The United States Trade Representative has decided to terminate

[1] A copy of this list may be obtained by contacting Mr. John Lindburg of the Office of the General Counsel of USIA. The telephone number is 202–485–7976, and the address is Room 700, U.S. Information Agency, 301 4th Street, SW., Washington, DC 20547.

the investigation initiated April 8 under the authority of section 307 of the Trade and Tariff Act of 1984 (19 U.S.C. 2114d), concerning the use of export performance requirements on foreign direct investment in the automotive sector on Taiwan.

EFFECTIVE DATE: October 9, 1986.

FOR FURTHER INFORMATION CONTACT: Donald W. Eiss, Deputy Assistant U.S. Trade Representative for Trade Policy and Analysis, Office of the United States Trade Representative, 600 17th Street, NW., Washington, DC 20506, (202) 395–5656.

SUPPLEMENTARY INFORMATION: On March 31, 1986, the President of the United States directed the United States Trade Representative (USTR) to investigate the imposition of export performance requirements on foreign direct investment in the automotive sector on Taiwan. On April 8, the USTR initiated an investigation concerning such export performance requirements on Taiwan (51 FR 12008).

Two rounds of consultations were held between the American Institute on Taiwan (AIT) and the Coordinating Council for North American Affairs (CCNAA) concerning this issue. As a result of these consultations, agreement was reached between AIT and CCNAA regarding actions that the authorities on Taiwan will be taking concerning the use of such requirements.

CCNAA informed AIT that export performance requirements will not be imposed in any future or pending investment applications for initial or expanded direct foreign investment in this sector. Also, a general review of the Automotive Industrial Development Plan will be conducted before the end of June 1987, and the export performance provisions in the Plan will be eliminated at that time, including the lifting of existing export performance requirements from firms that are currently subject to such requirements.

Based on these commitments, AIT has recommended to USTR that we terminate the section 307 investigation on export performance requirements in the automotive sector on Taiwan. On consideration of this request, and based on our understanding that the commitments contained in the agreement between AIT and CCNAA will be implemented as scheduled, we have determined that termination of this investigation is appropriate at this time.

Judith Hippler Bello,

Chairman, Section 301 Committee.

[FR Doc. 86–25861 Filed 11–14–86; 8:45 am]

BILLING CODE 3190–01–M

Sunshine Act Meetings

Federal Register
Vol. 51, No. 221
Monday, November 17, 1986

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FEDERAL ENERGY REGULATORY COMMISSION

"FEDERAL REGISTER" CITATION OF PREVIOUS ANNOUNCEMENT: November 12, 1986, 51 FR 41043.

PREVIOUSLY ANNOUNCED TIME AND DATE OF MEETING: November 12, 1986, 9:00 a.m.

CHANGE IN THE MEETING: The following items have been added:

Item No., Docket No., and Company

3—RM87–5–000, Notice of Inquiry into Alleged Anticompetitive Practices Related to Marketing Affiliates of Interstate Pipelines

4—CI86–168–000, Tenngasco Corporation, *et al.*

Lois D. Cashell,

Acting Secretary.

[FR Doc. 86–25940 Filed 11–13–86; 10:51 am]

BILLING CODE 6717-02-M

FEDERAL RESERVE SYSTEM

Committee on Employee Benefits of the Federal Reserve System

TIME AND DATE: 2:30 p.m., Thursday, November 20, 1986.

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED:

1. The Committee's agenda will consist of matters relating to: (a) The general administrative policies and procedures of the Retirement Plan, Thrift Plan, Long-Term Disability Income Plan, and Insurance Plan for Employees of the Federal Reserve System; (b) general supervision of the operations of the Plans: (c) the maintenance of proper accounts and accounting procedures in respect to the Plans; (d) the preparation and submission of an annual report on the operations of each of such Plans; (3) the maintenance and staffing of the Office of the Federal Reserve Employee Benefits System; and (f) the arrangement for such legal, actuarial, accounting, administrative, and other services as the Committee deems necessary to carry out the provisions of the Plans.

Specific items include: (1) Office of Employee Benefits' expense budget for 1987; and (2) proposals regarding the Retirement and Thrift Plans.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204.

Dated: November 13, 1986.

William W. Wiles,

Secretary of the Board.

[FR Doc 86–25941 Filed 11–13–86; 10:47 am]

BILLING CODE 6210-01-M

FEDERAL RESERVE SYSTEM BOARD OF GOVERNORS:

PLACE: Marriner S. Eccles Federal Reserve Board Building, C Street entrance between 20th and 21st Streets, NW., Washington, DC 20551.

STATUS: Closed.

MATTERS TO BE CONSIDERED: .

1. Personnel actions (appointments, promotions, assignments, reassignments, and salary actions) involving individual Federal Reserve System employees.

2. Any items carried forward from a previously announced meeting.

CONTACT PERSON FOR MORE INFORMATION: Mr. Joseph R. Coyne, Assistant to the Board; (202) 452–3204. You may call (202) 4522–3207, beginning at approximately 5 p.m. two business days before this meeting, for a recorded announcement of bank and bank holding company applications scheduled for the meeting.

Dated: November 13, 1986.

James McAfee,

Associate Secretary of the Board.

[FR Doc. 86–25968 Filed 11–13–86; 2:41 pm]

BILLING CODE 6210-01-M

Federal Register

Monday
November 17, 1986

Part II

Department of Education

Office of Elementary and Secondary Education

34 CFR Part 222

Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education; Final Rule

DEPARTMENT OF EDUCATION

Office of Elementary and Secondary Education

34 CFR Part 222

Assistance for Local Educational Agencies in Areas Affected by Federal Activities and Arrangements for Education of Children Where Local Educational Agencies Cannot Provide Suitable Free Public Education

AGENCY: Department of Education.

ACTION: Final regulations.

SUMMARY: The Secretary amends the regulations governing the Impact Aid Program to include eligibility criteria for payments under section 3 of Pub. L. 81–874. Section 3 payments provide maintenance and operations assistance to local educational agencies (LEAs) in federally affected areas. These regulations affect payments to LEAs beginning with fiscal year (FY) 1987.

EFFECTIVE DATE: These regulations take effect either 45 days after publication in the Federal Register or later if the Congress takes certain adjournments. If you want to know the effective date of these regulations, call or write the Department of Education contact person.

FOR FURTHER INFORMATION CONTACT: W. Stanley Kruger, Acting Director, Division of Impact Aid, U.S. Department of Education, Room 2117, 400 Maryland Avenue SW., Washington, DC 20202–6272. Telephone (202) 732–3637.

SUPPLEMENTARY INFORMATION: Public Law 81–874, as amended (the Act), 20 U.S.C. 236–244, known as the Impact Aid program, authorizes assistance to LEAs that are financially burdened by a reduced tax base resulting from the Federal acquisition of real property, or by an increased student population due to Federal activities, or both. Section 3 of the Act addresses both types of burdens by authorizing payments to LEAs that are to provide free public education to federally connected students. These payments supplement local revenues and assist the LEAs in meeting their maintenance and operations costs.

These regulations establish criteria for determining the eligibility of LEAs to claim children for purposes of section 3 Impact Aid payments. Pursuant to the Act, these regulations provide that an LEA cannot claim students for payment purposes if it is not both responsible for providing, and in fact providing, the students a free public education. They further the purpose of the Impact Aid program by directing the limited Federal funds to those LEAs that are burdened by having to educate federally connected children.

Although the Secretary anticipated that the regulations would govern FY 1986 payments, Pub. L. 99–349 (July 2, 1986) prohibits the Department from promulgating under the Act any new regulations effective for FY 1986. Therefore, these regulations will not affect any FY 1986 payments. All section 3 payments made for FY 1987 and beyond, however, will be governed by these regulations.

The Department received a number of comments in response to the Notice of Proposed Rulemaking (NPRM) published in the Federal Register on May 14, 1986 at 51 FR 17722. Those comments, along with the Department's responses, are summarized in Appendix B to these regulations. In light of the congressional mandate to delay the proposed FY 1986 effective date of these regulations, comments that requested postponement of the anticipated FY 1986 effective date are not summarized.

For the most part, these final regulations do not differ from the NPRM. As a result of a recommendation made by several commenters, however, Examples 1 and 2 have been clarified with respect to an LEA's responsibility to educate federally connected children whose education is substantially funded by the Bureau of Indian Affairs (BIA). The examples now explain that, although an LEA in that situation may retain legal responsibility for educating those children, the BIA has relieved the LEA of its practical and financial responsibility for their education.

Except for the part that describes Examples 1 and 2, the substantive discussion in the preamble to the NPRM is applicable to these final regulations.

Executive Order 12291

These regulations have been reviewed in accordance with Executive Order 12291. They are not classified as major because they do not meet the criteria for major regulations established in the Order.

List of Subjects in 34 CFR Part 222

Elementary and secondary education, Federally affected areas.

Citation of Legal Authority

A citation of statutory or other legal authority is placed in parentheses on the line following each substantive provision of those final regulations.

(Catalog of Federal Domestic Assistance No. 84.041, School Assistance in Federally Affected Areas—Maintenance and Operations)

Dated: October 10, 1986.

William J. Bennett,

Secretary of Education.

The Secretary amends Part 222 of Title 34 of the Code of Federal Regulations as follows:

PART 222—ASSISTANCE FOR LOCAL EDUCATION AGENCIES IN AREAS AFFECTED BY FEDERAL ACTIVITIES AND ARRANGEMENTS FOR EDUCATION OF CHILDREN WHERE LOCAL EDUCATIONAL AGENCIES CANNOT PROVIDE SUITABLE FREE PUBLIC EDUCATION

1. Part 222 is amended by revising the citation of authority to read as follows:

Authority: 20 U.S.C. 236–244, unless otherwise noted.

2. Subpart I consisting of §§ 222.80 and 222.81 is revised to read as follows:

Subpart I—Standards for Determining Eligibility Under Section 3 of the Act

Sec.

Subpart I—Standards for Determining Eligibility Under Section 3 of the Act

§ 222.80 Payments to local educational agencies.

The Secretary makes payments to an applicant local educational agency (LEA) for children claimed under section 3 of the Act, only if—

(a) The LEA is responsible under applicable State or Federal law for providing a free public education (as provided in § 222.81) to those children;

(b) The LEA is providing a free public education to those children; and

(c) The State provides funds for the education of those children on the same basis as all other public school children in the State, unless permitted otherwise under section 5(d)(2) of the Act.

(Authority: 20 U.S.C. 238 (a) and (b))

§ 222.81 Free public education.

(a) As used in § 222.80, a free public education means education that is provided—

(1) At public expense;

(2) As the complete elementary or secondary educational program;

(3) In a school of the LEA or under a tuition arrangement with another LEA or other educational entity; and

(4) Except with respect to handicapped children, under public supervision and direction.

(b) For the purpose of paragraph (a)(1) of this section, education is provided at public expense if—

(1) There is no tuition charge to the child or the child's parents; and

(2) Federal funds, other than Impact Aid funds, do not provide a substantial portion of the educational program.

(c) For the purpose of paragraph (a)(2) of this section, the complete elementary or secondary educational program is the program recognized by the State as meeting all requirements for elementary or secondary education for the children claimed and does not include a program that provides only—

(1) Supplementary services or instruction; or

(2) A portion of the required educational program.

(d) For the purpose of paragraph (a)(3) of this section, a tuition arrangement must—

(1) Satisfy all applicable legal requirements in the State; and

(2) Genuinely reflect the applicant LEA's responsibility to provide a free public education to the children claimed under section 3.

(e) For the purpose of paragraph (a)(4) of this section, education provided under public supervision and direction means education that is provided—

(1) In a school of the applicant LEA or another LEA; or

(2) By another educational entity, over which the applicant LEA, or other public agency, exercises authority with respect to the significant aspects of the educational program for the children claimed. The Secretary considers significant aspects of the educational program to include administrative decisions relating to teachers, instruction, and curriculum.

(Authority: 20 U.S.C. 244(4))

Appendix A—Examples Illustrating Application of Regulations in Certain Situations

Note:—This appendix will not be shown in the Code of Federal Regulations.

Example No. 1. Each LEA in a State is held responsible under State law for providing a free public education to all students who reside within its boundaries. This LEA meets its legal responsibility of providing free public education to its resident students by operating schools for grades kindergarten through 12. While all the students residing within this LEA are entitled to attend its schools to receive free public education, they are not required to do so.

Also located in or near this LEA are several schools operated by tribal groups under contract with the Bureau of Indian Affairs (BIA) of the Department of the Interior. The BIA provides funding to these schools from the Indian School Equalization Program (ISEP) under a formula designed to provide the full cost of educating the eligible students attending the schools.

A large number of Indian students residing on Indian lands in the LEA are eligible and choose to attend the BIA-funded schools where they receive the full program of instruction at the elementary or secondary level required by the State. The LEA does not provide educational services to the students in the BIA-funded schools.

The LEA claims to have a tuition arrangement with the BIA-funded schools. Under that arrangement, the LEA agrees to send to each BIA-funded school the full amount of the Impact Aid payments that it anticipates receiving on behalf of students attending that school, less ten percent.

In this case, although the LEA may retain legal responsibility for educating the children attending the BIA-funded schools, the BIA has relieved the LEA of its practical and financial responsibility to educate those children. The LEA is no longer burdened, within the meaning of the Act, by having to educate federally connected children, because their education is being provided by the BIA.

Because the BIA has assumed the practical and financial responsibility for educating students attending its schools—and would be required by Federal statute to do so even if the LEA received no Impact Aid—the fact that the LEA claims to have a tuition agreement with each of the BIA-funded schools makes no difference, the "tuition" payments the LEA makes to the BIA-funded schools are gratuitous.

Under these regulations, the LEA is not eligible to claim the children because it is not in fact providing those children a free public education. One of the four tests of a free public education in § 222.81 is whether the education is provided at public expense. Because Federal BIA funds provide a substantial portion, if not the full cost, of the educational program for those children, the education is not provided at public expense as required by § 222.81(b).

Example No. 2. In one community there are two educational entities that serve the school-aged children in the area. One of the entities is an LEA and the other is a school operated by an Indian tribe with ISEP funds provided through a contract with the BIA. While the LEA and the Indian tribe operate separate elementary schools, they have decided that it is in their mutual interest to operate, through a joint board, a single high school program for all the children in the community. The members on the joint board who represent the LEA exercise authority with respect to all matters of significance concerning the operation of the high school.

The high school consists of two buildings, one of which is owned by the LEA and the other by the BIA school. The two buildings are used as one facility with all students moving freely from one to the other for their classes. The high school program is provided free of charge to all of the students who attend and is fully accredited and recognized by the State. The LEA and the BIA school pool the resources available for the students each is responsible for educating. The LEA contributes funds it raises from local property taxes, and the BIA school contributes the funds it receives under the ISEP formula. The State provides State aid payments on an equal basis for all the students in this high school.

In this case, the BIA has relieved the LEA of its practical and financial responsibility for educating the high school students funded by the BIA under the ISEP formula. The LEA is no longer burdened, within the meaning of the Act, by having to educate federally connected children, because their education is being provided by the BIA. Under these regulations, the LEA is not eligible to claim those children, because the LEA is not in fact providing them a free public education in accordance with §§ 222.80(b) and 222.81(b).

The LEA is eligible, on the other hand, to claim the federally connected high school students whose education is not funded by the BIA. Even though the joint operation of the high school is somewhat unusual, the LEA is reponsible under State law for providing, and is in fact providing, their free public education. The program for those students is funded by the LEA's local tax revenues and State aid contributions, and therefore the education is provided at public expense in accordance with § 222.81(b). The education consists of the complete secondary educational program recognized by the State, in accordance with § 222.81(c). Finally, because the LEA's representatives on the joint school board exercise authority in all significant decisions regarding the operation of the high school, the education is provided under public supervision and direction in accordance with § 222.81(e).

Example No. 3. A State requires each of its LEAs to provide free public education to all students residing within its boundaries. In this State, These LEAs are referred to as "school districts of residence." A district of residence provides its students the complete

educational program required by the State.

A county in the State, containing four districts of residence, is considered an LEA by the State and also meets the Federal requirements for being an LEA because it provides the full required educational program for some children. This county also offers a supplementary program of advanced vocational training that is open to the secondary students of the four districts of residence located within the county. Typically, the secondary students from the districts of residence who attend the county's advanced vocational education program do so for one or two class periods a day. While the advanced vocational classes may be counted as part of a student's secondary program, a student could not meet the State's requirements for high school graduation by attending these classes alone.

Some of the students in one of the districts of residence are federally connected students who also participate in the county's supplementary vocational program. The district of residence is eligible for purposes of section 3 to claim those students because it is both responsible for providing, and in fact is providing, the complete educational program required by the State. The county, on the other hand, would not be eligible to claim those students. This is because the county, which provides only a supplementary portion of the students' education, does not provide the complete secondary educational program for those students in accordance with § 222.81(c). Therefore, the county is not providing their free public education as required by § 222.80(b).

Example No. 4. An LEA located in a sparsely populated, rural area operates a full program of elementary education, as recognized by its State, for the students residing within its boundaries. For various reasons, the LEA does not have any facilities in which to offer a program for its students at the secondary level.

The LEA provides the recognized secondary education program to its students by entering into a tutition arrangement with a local private school that meets applicable State requirements. The tuition covers the full cost of educating all its students. The program is governed by a joint school board made up of equal numbers of representatives of the LEA and the private school. A representative of the LEA serves as the director of the board. The joint board operates the secondary program by selecting and employing all school personnel, designing the curriculum, and supervising classroom instruction. In the event of a stalemate with regard to any significant decision affecting the educational program, the board director is authorized in resolve the issue.

Under these regulations, the LEA is eligible to claim for purposes of section 3 the students who are attending the private school for their secondary program. The LEA is both responsible for providing, and in fact is providing, their free public education under § 222.80. The education is provided at public expense (§ 222.81(b)) and is the complete secondary program recognized by the State (§ 222.81(c)). The education is being provided under a tuition arrangement that meets applicable State requirements and that genuinely reflects the LEA's responsibility to provide a free public education to the children claimed under section 3, in accordance with § 222.81(d). Finally, because the LEA exercises authority with respect to the significant aspects of the educational program, the education is provided under public supervision and direction as required by § 222.81(e).

Appendix B—Summary of Comments and Responses to the Notice of Proposed Rulemaking

Note.—This appendix will not be codified in the Code of Federal Regulations.

General

Comment. Many commenters suggested that the regulations should contain a hold-harmless provision for ineligible districts in place of an absolute bar on receipt of Impact Aid funds. Specifically, they requested a gradual phase-out of funds to ineligible districts by decreasing payments by 25 percent per year over four fiscal years. They argued that, without such a hold-harmless provision, the regulations would have a devastating financial impact on the affected LEAs. One commenter stated that, before the regulations are finalized, the Secretary should consider individual cases in which the regulations may have a drastic economic impact on an LEA's budget.

Response. A hold-harmless provision, under which the Department would continue to make payments over a period of time to ineligible districts, or an "exceptions" process based on individual cases, would be contrary to the purposes and objectives of the Impact Aid program. Payments under that program are intended to compensate LEAs that are responsible for providing and are providing a free public education to federally connected children. Payments made to districts on behalf of children enrolled in BIA-funded or private schools would divert limited Federal funds from eligible LEAs that are burdened by having to educate federally connected children.

In any event, since the regulations will not affect payments until fiscal year (FY) 1987, affected LEAs will have more time in which to plan for reductions in funds. The Department informed most affected LEAs in a January 1986 letter of the likelihood of reduced payments, and published a Notice of Intent to regulate in the **Federal Register** on February 19, 1986 (51 FR 6011). School districts have thus had adequate advance notice of regulatory changes that could affect their funding.

Comment. One commenter suggested that the regulations would in effect abolish the 22 existing cooperative agreements between LEAs and BIA-funded schools, and that those agreements should be encouraged rather than discouraged.

Response. These regulations govern eligibility for section 3 payments; they do not govern cooperative agreements, which are voluntarily entered into by LEAs and BIA-funded schools. The Secretary encourages the use of cooperative agreements when they constitute valid tuition arrangements and do not involve unauthorized duplicate Federal funding. By expressly permitting valid tuition arrangements (§ 222.81(a)(3)), these regulations may, in fact, help to foster genuine cooperation between LEAs and BIA-funded schools. Under these regulations, however, it would no longer be possible to use cooperative agreements for the purpose of obtaining Impact Aid on behalf of children who are claimed for funding by the BIA.

Comment. A few commenters said that the regulations violate the trust relationship between the Indians and the United States.

Response. The Secretary acknowledges the special trust relationship that exists between the Indians and the United States. Consistent with that trust relationship, the BIA provides funds for eligible children enrolled in its schools which are designed to meet the full cost of those children's education. In addition, the Impact Aid program provides for increased entitlements for federally connected Indian children and for withholding of all funds if LEAs do not establish adequate policies and procedures ensuring equal participation of Indian students. The existence of that trust relationship, however, does not authorize duplicate Federal funding and

the diversion of Impact Aid funds from their intended purposes.

Comment. Several commenters requested that a district whose federally connected children do not qualify for Impact Aid funding under the regulations be allowed, nevertheless, to claim those children for purposes of determining the degree of the district's Federal impact. (For example, if a district has 20 percent or more "A" students in total membership, it is known as a "Super A" district and receives a payment more than two times that of a regular "A" district.) The commenters expressed concern that, without the ability to claim those children, some districts would lose "Super A or B" status and their payments would be substantially reduced.

Response. To allow a district to claim, for purposes of determining the degree of Federal impact, children for whom it does not provide a free public education would be contrary to the intended purposes and objectives of the Impact Aid program. If children are not eligible to be claimed for payment, they are also not eligible to be counted in determining the degree of Federal impact.

It should be noted that a reduction in the number of eligible federally connected children may not necessarily affect a district's "Super" status. This is because such a reduction affects not only the count of federally connected children but also the district's total membership count. Thus, the percentage of Federal impact (total number of federally connected children divided by total membership) may not significantly change.

Comment. One commenter suggested that the regulations be changed to specify that, regardless of any change in circumstances, schools originally built by LEAs would remain State-supported schools funded by Impact Aid and schools originally built by the BIA would remain funded through the Indian School Equalization Program (ISEP) formula.

Response. These regulations do not address the status of schools as LEA- or BIA-funded schools; rather, they address only the question of an LEA's eligibility to claim federally connected children for Impact Aid purposes.

Comment. A few commenters suggested that the BIA should be involved in the rulemaking process for these regulations. One commenter specifically stated that the Department has not obtained, or sought to obtain, the cooperation of the BIA regarding the effects of the regulations.

Response. The BIA has been involved in the rulemaking process for these regulations. In fact, for the past several years the Department and the BIA have cooperated in an attempt to resolve the issue of duplicate payments. Prior to the publication of the NPRM, the Department consulted the BIA for comments and suggestions on the proposed regulations. BIA officials submitted formal comments on the proposed regulations, as did a number of representatives from Indian tribes and BIA-funded schools.

Section 222.81 Free public education.

Comment. A few commenters stated that the Impact Aid statute does not authorize the Department to promulgate regulations that disqualify payments on behalf of federally connected children because their education is substantially funded by another Federal agency. One commenter stated that there is no authority for defining "education provided at public expense" (§ 222.81(b)) to exclude programs substantially supported by Federal funds. That commenter contended that the word "public" pertains to the Nation as well as the State, and, therefore, education provided by the BIA is "education provided at public expense."

Response. Under sec. 401(b) of Pub. L. 81–874, 20 U.S.C. 242(b), the Department has broad authority to promulgate regulations to interpret and implement the Imapct Aid law. As explained in the preamble to the NPRM, the provisions of these regulations that preclude duplicate payments of Federal funds are fully consistent with, and contribute significantly to, the purposes and objectives of the Impact Aid program.

"Public education" generally means education provided by a local or State community, not by the Federal Government. This meaning is incorporated in the Education Department General Administrative Regulations, 34 CFR 77.1(c). The Impact Aid law was enacted to help compensate districts for the burden imposed on *local* resources by having to educate federally connected children. *See* H. Rept. 2287, 81st Cong., 2d sess. 11, 1950. To consider education provided by the BIA as education provided at "public expense" would be to authorize duplicate Federal funding to districts that are not burdened within the meaning and purpose of the Act.

Comment. One commenter recommended that, in view of the fact that the appendix containing the examples will not be codified, the regulations should specify explicitly that students counted for funding under the ISEP formula are not eligible for Impact Aid funds.

Response. As explained in the preamble to the NPRM, the regulations are designed to cover a number of situations in which applicant LEAs claim children who reside within their boundaries but attend schools not operated by the LEAs. The Secretary believes that incorporating particular language from the examples into the regulations is not necessary and would entail an undue and uncharacteristic degree of specificity.

Comment. A few commenters stated that BIA funds should be treated as State funds rather than Federal funds. They explained that the BIA is treated as the "51st State" for local funding purposes, and therefore the receipt of BIA funds on behalf of a district's Indian children should not disqualify the district from claiming those same children for Impact Aid payments.

Response. Regardless of how BIA funds are treated for purposes of State funding in a given community, there is no question that those funds are provided by a Federal agency and therefore must be considered as a matter of law, for the purposes of these regulations, as Federal funds.

Comment. A few commenters stated that, in one State, tribally-operated schools funded by the BIA are considered "LEAs" in that State and that those schools should therefore qualify under the regulations to receive Impact Aid funds.

Response. Tribally-operated, BIA-funded schools that are considered LEAs by the State do not qualify under § 222.81(b)(2) (public expense requirement) to receive Impact Aid payments on behalf of children educated in those schools who are funded through the ISEP formula. Those schools are not providing a free public education for those children so long as BIA funds continue to support a substantial portion of their educational program.

Comment. One commenter suggested that the regulatory provision that disqualifies an LEA from claiming children whose education is funded by the BIA is unfair, because it ignores the fact that the BIA can claim a child for funding purposes under the ISEP formula even if that child is enrolled in the LEA. Another commenter suggested that the regulations should contain a provision to serve as a "watchdog" over the Department of the Interior and the BIA to ensure that the BIA-funded schools do not engage in "questionable activity" at the expense of the LEAs.

Response. Section 1128 of Pub. L. 95–561, as amended by Pub. L. 99–228, governs the eligibility of children for purposes of funding under the ISEP

formula. The BIA is the agency charged with administering that law and establishing procedures for the funding of eligible children. It is not the intention of these regulations, nor is it within the authority of the Department of Education, to supervise or interfere with the BIA's administration of its own program.

Comment. One commenter suggested that, to be consistent with § 222.81(c), paragraph (a)(2) of § 222.81 should be changed to read "As the complete elementary *or* [as opposed to *and*] secondary educational program."

Response. The Secretary agrees with the suggestion and has made the requested change.

Comment. One commenter requested further clarification regarding what would constitute a tuition arrangement under § 222.81(d), and which district—the "sending" district or the "receiving" district—would be eligible to claim the tuitioned children.

Response. Under the regulations, if an LEA does not educate federally connected children in its own schools, it may make a tuition payment to another LEA or educational entity on behalf of those children under an arrangement that meets the requirements of § 222.81(d). In particular, the tuition payments must be more than token amounts and must genuinely reflect the LEA's responsibility to provide a free public education to the tuitioned children. If the "sending" LEA (*i.e.*, the one that makes a tuition payment) meets all the other requirements of the regulations, it will be deemed to be providing free public education to the tuitioned children, and can claim them for purposes of Impact Aid funding. The "receiving" entity (*i.e.*, the one that receives the tuition payments from the sending district), even if it is an LEA, cannot also claim those children for payments. (*See* 20 U.S.C. 244(10).)

If, on the other hand, the "sending" district does not make tuition payments to the "receiving" district, the "receiving" district may be eligible to claim the children for payments. To be able to claim those children, the "receiving" district would have to be responsible under State law for providing, and in fact be providing, the children a free public education in accordance with the requirements of the regulations.

Comment. One commenter stated that it is important that BIA-funded schools be allowed under the regulations to enter into tuition arrangements with the LEA in order to ensure that students, who are the responsibility of the LEA but for one reason or another do not attend the LEA's schools, are provided quality educational services.

Response. The regulations permit tuition arrangements between LEA's and BIA-funded schools that meet the requirements of § 222.81(d). LEA's providing free public education in accordance with the requirements of § 222.81 will qualify to claim their tuitioned children for purposes of Impact Aid.

Comment. One commenter suggested that the regulations should make clear that the public supervision and direction requirement in § 222.81(e) applies only with regard to students claimed for Impact Aid purposes. Another commenter stated that, in the situation in which an LEA pays tuition to a BIA-funded school on behalf of students enrolled in the LEA, the regulations would require the LEA to exercise excessive control over the administration of the BIA-funded school. The public supervision and direction requirement, said the commenter, is too restrictive and would have the effect of undermining the local decisionmaking authority of BIA-funded schools.

Response. The requirement that a free public education be provided under public supervision and direction is statutory. *See* 20 U.S.C. 244(4). The regulations implement that requirement by establishing a flexible standard under which various situations can be evaluated on a case-by-case basis. The language of § 222.81(e)(2) and the preamble to the NPRM both make clear that the public supervision and direction requirement applies only to children claimed for Impact Aid. Thus, the regulations should not be read to require an LEA to exercise authority with respect to the overall educational program of a BIA-funded or private school, but only to significant aspects of the program as they relate to the claimed children. Nor do the regulations require an LEA to exercise unwarranted control over the administration of a BIA-funded or private school.

What constitutes appropriated public supervision and direction would depend on the situation, but at the very least an LEA paying tuition for students attending a BIA-funded or private school must retain authority to approve the choice of curriculum and instruction as it relates to the educational program for the claimed students. Certainly, the LEA must exercise sufficient authority to ensure that the education provided for those students by the BIA-funded or private school meets the State requirements for graduation.

These regulations will encourage valid tuition arrangements and working relationships between LEAs and BIA-funded schools, while discouraging arrangements that are established solely for the purpose of obtaining Impact Aid funds on behalf of children who are claimed for funding by the BIA.

Comment. One commenter described a situation regarding an LEA's exercise of public supervision and direction over the educational program of a private school. The commenter explained that, pursuant to a contract between the LEA and the private school, periodic joint meetings are held between the two respective school boards during which decisions are made as a result of a consensus rather than a formal vote. The commenter requested that § 222.81(e) be broadened to reflect more closely the situation in that LEA.

Response. The situation described by the commenter would have to be examined more closely to determine whether the LEA would be in compliance with the public supervision and direction requirement. Example 4 in the appendix to the NPRM, which resembles the commenter's example, described a situation in which an LEA sends *all* of its high school students to a private school for their *entire* educational program. That LEA must maintain authority over significant decisions reached by a joint LEA/private school board with respect to the children claimed. Whether that authority is exercised by the taking of a formal vote or by the reaching of a consensus is not crucial. The Secretary believes that most LEAs that are otherwise eligible to claim children under the regulations will have little difficulty in complying with § 222.81(e).

Examples

Comment. Several commenters stated that they disagreed with the assertion in Examples 1 and 2 that, when a child who resides within the boundaries of an LEA chooses to attend a BIA-funded school, the BIA-funded school in effect releases the LEA from its legal responsibility to educate that child. They contended that the LEA at all times remains legally responsible for the child's education, regardless of whether he or she attends a school of the LEA or the BIA.

Response. The language in the first two examples has been amended to clarify which entity has responsibility for educating federally connected children who reside within the boundaries of an LEA but who choose to attend a BIA-funded school. The BIA does not, strictly speaking, release the LEAs in those examples from their legal responsibility to educate the claimed children. Nevertheless, the BIA has

relieved the LEAs of their practical and financial responsibility for educating those children. By no longer having to pay for the education of those children, the LEAs are no longer burdened, within the meaning of the Impact Aid law, by the presence of those children within their boundaries. In the same way, an LEA is not financially burdened by children residing within its boundaries who choose to attend a private school.

In any event, the LEAs in the two examples are not providing the children a free public education that meets the requirements of § 222.81. The LEAs are therefore not eligible to claim those children for Impact Aid payments.

Comment. Several commenters took exception to the assertion made in the first example that BIA funds are designed to pay for the entire cost of the educational program for children attending its schools, and that BIA funds do, in fact, provide a substantial portion of those children's education. A few commenters said that, although the formula provided under ISEP is designed to pay for the full cost of educating those children, the BIA program is not adequately funded to provide a quality education, including an education meeting State standards.

Response. Comments submitted from authoritative sources, both within and outside the BIA, confirmed the Secretary's understanding that funds provided under the ISEP formula are designed to pay for the full cost of educating eligible children attending a BIA-funded school. Whether or not the BIA program is adequately funded to meet the necessary costs or State standards is not a matter within the jurisdiction or control of the Department of Education. Even if ISEP funds in some instances do not in fact pay for the full cost of educating eligible Indian children, those funds undoubtedly provide at least a substantial portion of those children's education. Their education, therefore, is not provided "at public expense" within the meaning of these regulations.

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Monday
November 17, 1986

Part III

Environmental Protection Agency

40 CFR Part 300

Emergency Planning and Community Right to Know Programs; Interim Final Rule and Proposed Rule Cross-Reference

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SW H-FRL-3113-6]

Emergency Planning and Community Right to Know Programs

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Interim final rule.

SUMMARY: Section 302 of the Superfund Amendments and Reauthorization Act of 1986 (SARA), signed into law on October 17, 1986, requires the Administrator of EPA to publish a list of extremely hazardous substances within 30 days. The Administrator is also required to simultaneously publish an interim final regulation establishing a threshold planning quantity for each substance on the list and initiate a rulemaking to finalize these regulations. The list and planning quantities trigger emergency planning in States and local communities under SARA. The purpose of this rule is to publish the statutorily prescribed list of extremely hazardous substances and the corresponding threshold planning quantities for those substances. This rule also codifies the reporting and notification requirements under SARA for facilities at which extremely hazardous substances are present. Finally, a companion proposed rule, published elsewhere in today's **Federal Register**, initiates a rulemaking to revise the list of substances, the threshold planning quantities and reporting regulations.

EFFECTIVE DATES: This rule becomes effective on: November 17, 1986. Other dates relevant to this rule include the following:

1. The emergency release notification requirements become effective on November 17, 1986.

2. State emergency response commissions should be established by April 17, 1987.

3. Facility notifications for emergency planning are required by May 17, 1987.

4. State commissions should establish emergency planning districts by July 17, 1987.

5. State Commissions should establish local emergency planning committees by August 17, 1987.

6. Facility notifications to local committees concerning facility representatives are due by September 17, 1987.

COMMENTS: Written comments should be submitted on or before January 2, 1987.

ADDRESSES: Comments: Written comments should be submitted in triplicate to Preparedness Staff, Superfund Docket Clerk, Attention: Docket Number 300PQ, Superfund Docket Room Lower Garage, U.S. Environmental Protection Agency, Mail Stop WH 548D, 401 M Street SW., Washington, DC 20460.

Docket: Copies of materials relevant to this rulemaking are contained in the Superfund Docket located in Room Lower Garage at the U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. The docket is available for inspection by appointment only between the hours of 9:00 a.m. and 4:00 p.m. Monday through Friday, excluding federal holidays. The docket phone number is (202) 382-3046. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Richard A. Horner, Chemical Engineer, Preparedness Staff, Office of Solid Waste and Emergency Response, WH-548, U.S. Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460, or the Chemical Emergency Preparedness Hotline at 1-800/535-0202, in Washington, DC at 1-202/479-2449

SUPPLEMENTARY INFORMATION: The contents of today's preamble are listed in the following outline:

I. Introduction

A. Statutory Authority

These regulations are issued under Title III of the Superfund Amendments and Reauthorization Act of 1986, (Pub. L. 99-499), ("SARA" of "the Act"). Title III of SARA is known as the Emergency Planning and Community Right-to-know Act of 1986.

B. Background

1. Superfund Amendments and Reauthorization Act of 1986 (SARA)

On October 17, 1986, the President signed into law the Superfund Amendments and Reauthorization Act of 1986 ("SARA") which revises and extends the authorities established under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 ("CERCLA"). Commonly known as "Superfund," CERCLA provides authority for federal cleanup of abandoned toxic waste sites and response to releases of hazardous substances. Title III of SARA establishes new authorities for emergency planning and preparedness, community right to know reporting, and toxic chemical release reporting.

2. Title III

Title III of SARA, also known as the "Emergency Planning and Community Right-to-Know Act of 1986", is intended to encourage and support emergency planning efforts at the State and local level and provide residents and local governments with information concerning potential chemical hazards present in their communities.

The emergency planning requirements of this Act recognize the need to establish and maintain contingency plans for responding to chemical accidents which can inflict health and environmental damage as well as cause significant disruption within a community.

Title III is organized into three subtitles. Subtitle A, which establishes the framework for local emergency planning, will be described in more detail in the following section. Subtitle B provides the mechanism for community awareness with respect to hazardous chemicals present in the locality. This information is critical for effective local contingency planning. Subtitle B includes requirements for the submission of material safety data sheets and emergency and hazardous

chemical inventory forms to State and local governments, and the submission of toxic chemical release forms to the States and the Agency. Subtitle C contains general provisions concerning trade secret protection, enforcement, citizen suits, and public availability of information.

3. Subtitle A

Subtitle A of Title III is concerned primarily with emergency planning programs at the State and local levels. Section 301 requires each State to establish an emergency response commission by April 17, 1987. The State emergency response commission will have several tasks critical to the implementation of local contingency planning and response efforts. It will be responsible for establishing emergency planning districts and appointing local emergency planning committees. The Commission will also be responsible for the supervision and coordination of the activities of the local emergency planning committees.

Section 302 requires the Administrator of EPA to publish a list of extremely hazardous substances and threshold planning quantities for such substances. Any facility where an extremely hazardous substance is present in an amount in excess of the threshold planning quantity is required to notify the State commission by May 17, 1986. Other facilities may also be designated by the Commission or the Governor.

Section 303 governs the development of comprehensive emergency response plans by the local emergency planning committees and provision of facility information to the committee. Section 304 establishes requirements for immediate reporting of certain releases of hazardous substances to the local planning committees and the State emergency response commission, similar to the release reporting provisions under section 103 of CERCLA. Section 304 also requires follow up reports on the release, its effects, and response actions taken.

Finally, section 305 addresses emergency preparedness and training, with special emphasis on hazardous chemicals. The Administrator is also required under section 305 to conduct a review of emergency systems.

4. Section 302

Section 302 defines the specific list of extremely hazardous substances and requires EPA to publish the list within 30 days after the enactment of SARA. The list of extremely hazardous substances is defined in section 302 as "the list of substances published in November, 1985 by the Administrator in Appendix A of the Chemical Emergency Preparedness Program Interim Guidance". This list was established by EPA to identify chemical substances which could cause serious irreversible health effects from accidential releases.

Section 302 further requires EPA to establish threshold planning quantities for each of the 402 extremely hazardous substances through an interim final regulation. At the same time, EPA must initiate a rulemaking effort to finalize these threshold planning quantities. This threshold planning quantity is the total amount of any listed extremely hazardous substance present at any one time at a facility, regardless of location, number of containers, or storage method, which will trigger the planning notification. Section 302 gives the Administrator broad flexibility in establishing these quantities. If EPA does not publish interim final rules establishing the threshold planning quantities by thirty days after enactment of SARA, then the threshold planning quantity becomes two pounds for each extremely hazardous substance.

Under section 302(a)(4) the Administrator may make revisions to the list and threshold planning quantities. Any revisions must take into account the toxicity, reactivity, volatility, dispersibility, combustibility, or flammability of a substance.

Toxicity must include any short- or long-term effect resulting from a short-term exposure to the substance in question. Thus, extremely hazardous substances are characterized as those which can cause serious health effects with only a single exposure.

A facility is subject to the emergency planning requirements of section 302 if any extremely hazardous substance is present at the facility in a quantity greater than the threshold planning quantity established for that substance. The Governor or the State emergency response commission may designate additional facilities to be covered if such designation is made after public notice and opporunity for comment.

Within seven months after enactment of SARA, May 17, 1987, the owner/operator of each facility subject to the provisions of section 302 must notify the State emergency response commission of the state in which it is located that it is subject to that Section. After May 17, 1987 an owner/operator must notify the State emergency response commission within sixty days after the facility begins handling an extremely hazardous substance. Failure to comply with these reporting provisions may, under section 325, result in injunctive relief or the imposition of a civil penalty in an amount of up to $25,000 for each day in which the violation continues.

Lastly, the State emergency response commission must provide the Administrator of EPA with information concerning the notifications received from any facility under section 302.

Today's rule publishes the list of extremely hazardous substances and corresponding threshold planning quantities, as required by section 302. This rule also codifies related statutory reporting requirements applicable to facilities at which extremely hazardous substances are present. Finally, today's rule represents an initiation of an Agency rulemaking to revise this rule as appropriate in response to public comment. A companion proposed rule, published elsewhere in today's **Federal Register**, specifically sets out for public comment all aspects of this final rule and proposes revisions to the list published today.

II. Analysis of the Interim Final Rule

A. Emergency Planning Program

The emergency planning program is a first step toward chemical emergency planning for extremely hazardous substances. After the enactment of Superfund, it became apparent that emergency response to accidental releases of hazardous substances, although vital to the protection of public health and the environment, was not enough protection against the possibility of the release of extremely hazardous substances. For many chemicals the magnitude of the endangerment to surrounding populations upon release is such that it is not sufficient merely to plan for cleanup of spills once they have occurred. Rather, it is important to facilitate emergency planning which can help prevent the accident and to prepare facilities and the surrounding or adjacent community for the contingency of a release and the resulting emergency response.

Particularly after the Bhopal, India disaster of December, 1984, it became clear that substances which are highly acutely toxic and have a high potential for becoming airborne posed a special problem for emergency response. In many cases, by the time any emergency response personnel can arrive on the scene of a release, the cloud has already done its damage to public health or the environment and dissipated. For such extremely hazardous substances, early comprehensive emergency planning for the possibility of a release is vital to effective public and environmental protection.

1. Purpose of the List and Threshold Planning Quantities

The extremely hazardous substances list of 402 substances was developed as part of the Chemical Emergency Preparedness Program (CEPP) and is the result of over a year of EPA effort. EPA initiated the CEPP as part of its ongoing preparedness responsibilities for hazardous substance releases under CERCLA and for addressing toxic substances under the Toxic Substances Control Act (TSCA). The program was announced in June, 1985, as part of the Agency's Air Toxics Strategy for addressing both continuing and accidental releases of toxic substances into the air. CEPP is designed to increase public awareness of chemical hazards in communities and to assist States and communities in developing preparedness programs and response capabilities for releases of hazardous chemicals into the environment.

The Agency first developed the extremely hazardous substances list as part of the CEPP along with guidance materials to aid localities in focusing on these chemicals to address the development of community emergency response plans. The list and guidance materials (issued November, 1985) were designed to enable a community to obtain information on the location of potential chemical hazards in the community. This information could be used to help the community take preventive actions and plan responses to accidental releases of these extremely hazardous substances. A notice of availability of the CEPP Interim Guidance was published in the **Federal Register** on December 17, 1985.

Title III of SARA mandates the type of program advocated by the Agency's CEPP. It requires State and local governments to establish the infrastructure needed to facilitate emergency planning and provides technical support to these programs. It also requires certain facilities to supply the information on chemicals present at the facility which is necessary for contingency planning.

The extremely hazardous substances list and its threshold planning quantities are intended to help the local community focus on the chemicals and facilities of the most immediate concern from a community emergency planning and response perspective. EPA strongly emphasizes, however, that while the list published today includes many of the chemicals which may pose an immediate hazard to a community upon release, it is not to be considered a list of all chemicals which are hazardous enough to require community emergency response planning. There are tens of thousands of compounds and mixtures in commerce in the United States, and in specific circumstances, many of them could be considered toxic or otherwise dangerous. The list published today represents only a first step towards development of an effective emergency response planning effort at the community level. Without a preliminary list of this kind, it would be very difficult for most communities to know where to begin identification of potential chemical hazards among the many chemicals present in any locality.

Similarly, the threshold planning quantities are *not* absolute levels above which the extremely hazardous substances are dangerous and below which they pose no threat at all. Rather, the threshold planning quantities are intended to provide a "first cut" for community emergency response planners where these extremely hazardous substances are present. After identification of facilities at which extremely hazardous substances are present in quantities greater than the threshold planning quantities, the local community will have the basis for further analysis of the potential danger posed by these facilities. Also, they will be able to identify other facilities posing potential chemical risks to the locality, and develop contingency plans to protect its citizens from releases of hazardous chemicals. Sections 311 and 312 of Title III provide a mechanism through which a community will receive Material Safety Data Sheets and other information on extremely hazardous substances, as well as many other chemicals, from facilities which handle them. A community can then assess and initiate planning activities, if desirable, for quantities below the threshold planning quantity.

In addition to the assistance provided by the extremely hazardous substance list and the threshold planning quantities, community emergency response planners will be further aided by the National Response Team's proposed *Hazardous Materials Emergency Planning Guide* which is required under section 303(f) of Title III. This document will be available for public review and comment in December. A separate notice of availability will be published in the **Federal Register** at that time. The guidance document will be supplemented in 1987 with a technical publication developed by EPA to assist local emergency planning committees in the technical evaluation of potential chemical hazards and the prioritization of sites.

2. Responsibilities of Facilities Under Subtitle A

Subtitle A established several notification responsibilities for facilities at which hazardous substances are present or from which hazardous substances are released. First, under section 302, each facility where any extremely hazardous substance is present at any one time in a quantity equal to or above the threshold planning quantity established for that substance, must notify the State emergency response commission for the State in which it is located.

This notification must be provided within seven months after the enactment of SARA (May 17, 1987) or within 60 days from the time that the facility first becomes subject to the notification requirements in section 302, whichever is later.

Second, under section 303(d), these facilities must also designate a facility representative who will participate in the local emergency planning effort as a facility emergency response coordinator. This designation must be made by September 17, 1987 or 30 days after establishment of the local emergency response committee, whichever is earlier. Section 303(d) also requires facilities to provide the committee with information relevant to development or implementation of the local emergency response plan.

Section 304 requires notification by a facility at which a hazardous chemical is produced, used, or stored to the local planning committee and the State emergency response commission upon release of a reportable quantity (RQ) of any extremely hazardous substance or other hazardous substance identified under CERCLA section 101(14). This notification is required even if a threshold planning quantity of a substance is not present at the facility. Those extremely hazardous substances for which an RQ has not been established under CERCLA are given an RQ of one pound under section 304 of SARA. These RQ's will be adjusted in later regulation by EPA. Section 304 requires both an immediate release notification to the local committee and State commission and a follow-up report providing additional information on the release, its impacts, and any actions taken in response.

Under section 325, failure to comply with these responsibilities may result in the imposition of civil or criminal penalties. States, local governments, and citizens may also bring suit to enforce many sections of the Act.

3. Applicability

The emergency planning requirements under section 302 are applicable to all facilities which store, manufacture, process, use, or otherwise handle at any time an extremely hazardous substance in an amount above the threshold planning quantity established for that substance in today's rule. Additionally, after public notice and the opportunity for comment, the Governor may designate other facilities that will be subject to these regulations. "Facility", for the purposes of Title III, is defined as "all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person)."

For purposes of emergency release notification, under section 304 "facility" is defined in section 329 to also include transportation vessels or facilities. However, section 304 notification requirements apply only to facilities at which hazardous chemicals are produced, used, or stored and at which there is a release of an extremely hazardous substance or a CERCLA hazardous substance.

4. Responsibilities of the States and Local Communities Under Title III.

Title III also prescribes several requirements with respect to emergency planning for States and localities. First, under section 301(a) the Governor of each State is to appoint, within six months of the enactment of SARA, April 17, 1987, a State emergency response commission or designate a state agency to have this responsibility. Until the Governor appoints such a commission or state agency, responsibilities of the Commission under Title III remain with the Governor.

Section 301(b) further provides that the State emergency response commission will be responsible for the establishment of emergency planning districts in which local emergency planning committees will be formed. One month after the emergency planning districts are established, the State commission is responsible for appointing the local emergency planning committees.

Under section 301(c) local emergency planning committees will have the initial responsibility for establishing the community emergency response plans specified in section 303, and the ongoing responsibility for updating, revising, and exercising these plans.

B. List of Extremely Hazardous Substances and Threshold Planning Quantities

1. List of Extremely Hazardous Substances

a. *Statutory Requirement:* As stated above, the list of extremely hazardous substances is defined in section 302 to be the "same as the list of substances published in November 1985 by the Administrator in Appendix A of the Chemical Emergency Preparedness Program (CEPP) Interim Guidance." Section 302 requires the EPA to publish the list within 30 days of the enactment of SARA.

One of the goals of the CEPP was to increase community awareness of chemical hazards, specifically acutely toxic chemicals. To satisfy this goal, the Agency developed the toxicity criteria to assist communities in identifying acutely toxic chemicals present in their midst. Through identification of these chemicals, communities could establish priorities for developing comprehensive emergency response plans. To further assist the communities, the Agency applied toxicity criteria to develop a representative, but not exhaustive, list of acutely toxic chemicals. It is this representative list of 402 chemicals that is presently designated in section 302 as the list of extremely hazardous substances.

The following sections discuss the criteria for identifying extremely hazardous substances.

b. *Criteria for the List*—i. Basis for the Criteria. Considering the large number of chemicals in commerce and the variable nature of their individual inherent acute toxicities, the Agency assumed for the purposes of the CEPP, that it would be impractical for communities to evaluate all of them. The CEPP list was also based on the assumption that communities would want to focus emergency planning efforts on the most acutely toxic chemicals rather than on nontoxic chemicals or those exhibiting lesser acute toxicity. In an attempt to direct community planning efforts to these chemicals which, because of their inherent acute toxicity, are most likely to induce serious acute reactions following short term exposure, the Agency has specified selection criteria that can be applied to toxicity data to identify acutely toxic chemicals (referred to as "extremely hazardous substances" under Title III).

In defining the criteria, the Agency had to identify the health effects of concern and the data to be used. Because there are very few human acute toxicity data, the Agency elected to use acute toxicity data derived from experiments with animals to infer potential for acute toxic effects in humans. The Agency assumed that humans and animals (mammals), on the average, are similar in intrinsic susceptibility to toxic chemicals and that animal data can be used as a surrogate for human data. This assumption forms one basic premise of modern toxicology and is a key component in the regulation of toxic chemicals.

The Agency chose to utilize data on lethality because it represents the most immediate concern in an emergency situation. Additionally, such data can be used as a comparison among many substances whose mechanisms and sites of action may be markedly different. Moreover, acute lethality data for many chemicals are the most commonly reported toxicity information and are available in accessible databases. Lethality data from animal toxicity tests are generally expressed as the median lethal concentration (LC_{50}) when the substance has been administered by inhalation or the median lethal dose (LD_{50}) when the substance has been administered orally or dermally. These data represent dose levels or concentrations of a chemical that resulted in the death of 50 percent of the test animals exposed at the indicated dose level.

ii. Criteria. The Agency adopted the specific criteria shown in Table 1 to identify extremely hazardous substances that may present severe health hazards to humans following short term exposure to chemicals during a chemical accident or other emergency. The selection criteria are only screening tools to identify highly acutely toxic chemicals. Under these criteria, a chemical is to be considered a potential acute human toxicant if animal test data in any mammalian species are identified with a value less than or equal to that stated for the LC_{50} or LD_{50} criteria for any one of three exposure routes. Extremely hazardous substances are those defined with inhalation LC_{50} values of less than or equal to 0.5 milligrams per liter of air, dermal LD_{50} values of less than or equal to 50 milligrams per kilogram of body weight, or oral LD_{50} values of less than or equal to 25 milligrams per kilogram of body weight. The specific values chosen are recognized by the scientific community as indicating a high potential for actute toxicity, and chemicals meeting the toxicity criteria are considered potential hazards.

TABLE 1—CRITERIA TO IDENTIFY ACUTELY TOXIC CHEMICALS THAT MAY PRESENT SEVERE HEALTH HAZARDS TO HUMANS EXPOSED DURING A CHEMICAL ACCIDENT OR OTHER EMERGENCY

Route of Exposure [1]	Acute Toxicity Measure [2]	Value
Inhalation	Median Lethal Concentration in Air (LC_{50})	Less than or equal to 0.5 milligrams per liter of air.
Dermal	Median Lethal Dose (LD_{50})	Less than or equal to 50 milligrams per kilogram of body weight.
Oral	Median Lethal Dose (LD_{50})	Less than or equal to 25 milligrams per kilogram of body weight.

[1] The route by which the test animals absorbed the chemical, i.e., by breathing it in air (inhalation), by absorbing it through the skin (dermal), or by ingestion (oral).

[2] LC_{50}: The concentration of the chemical in air at which 50 percent of the test animals died. LD_{50}: The dose which killed 50 percent of the test animals. In the absence of LC_{50} or LD_{50} data, LC_{LO} or LD_{LO} data should be used. LC_{LO}: Lethal Concentration Low, the lowest concentration in air at which any test animals died. LD_{LO}: Lethal Dose Low, the lowest dose at which any test animals died.

The primary route of exposure with which the Agency is concerned is inhalation. In using data on oral and dermal acute lethality to infer concern about inhalation toxicity, the Agency was not as much concerned with these specific routes of exposure in humans as with identifying compounds with inherent high potential for acute toxicity.

Even with the amount of animal data that are available, there exist chemicals for which there are no standard acute toxicity test data. In those cases where toxicity testing has not determined an LD_{50} or LC_{50}, the Agency selected an alternative measure of acute toxicity: The lowest dose or concentration at which some animals died following exposure (LD_{LO} or LC_{LO}). These values may be more variable than those provided from median lethality tests, but for the purposes of screening large numbers of chemicals, it was deemed necessary to provide a second level screening tool in preference to missing potentially toxic chemicals because they were not adequately tested.

The Agency chose to use data from the most sensitive mammalian species instead of data from only one specific species because at present it is not possible to predict which species is the appropriate surrogate for humans for a given chemical.

Acute inhalation toxicity testing depends upon the concentration of the chemical in air and the duration of the exposure periods. Because of this, LC_{50} and LC_{LO} values for a chemical may vary depending upon how long the animals were exposed to the substance. The Agency chose also to make maximum use of available acute toxicity data to screen for acutely toxic chemicals and, therefore, chose to use LC_{50} and LC_{LO} values with exposure periods up to 8 hours or with no reported exposure period. The Agency recognizes that this may be a conservative approach.

The screening criteria selected by the Agency are basically consistent with internationally accepted criteria used by both the European Economic Community and the World Bank. However, the Agency has adopted a more conservative approach by modifying the selection criteria in three ways:

1. Lethality data are not limited to data on rats, but include data on the most sensitive mammalian species tested;

2. LC_{50} data with inhalation exposure periods up to 8 hours are included as compared to using only data from 4 hour exposure tests; and

3. LD_{LO} and LC_{LO} data are used when LD_{50} or LC_{50} data are unavailable.

iii. Application of the Criteria. The screening criteria can be applied to any experimental data or data base on chemical substances that includes acute animal toxicity data. The Agency applied the criteria to a specific toxicity data base, the *Registry of Toxic Effects of Chemical Substances* (RTECS), maintained by the National Institute of Occupational Safety and Health (NIOSH). The RTECS data base was used as the principal source of toxicity data for identifying acutely toxic chemicals because it represents the most comprehensive repository of acute toxicity information available with basic toxicity information and other data on more than 79,000 chemicals. It is widely accepted and used as a toxicity data source by industry and regulatory agencies alike. Although RTECS is not formally peer-reviewed, the data presented are from scientific literature which has been edited by the scientific community before publication. The Agency recognizes the limitation associated with the lack of peer-review, but for the purposes of screening acute toxicity data, RTECS represents the single best source of information.

In addition, the Agency selected only those chemicals considered to be in current production by reviewing the non-confidential 1977 Toxic Substances Control Act (TSCA) Inventory and the current EPA list of active pesticide ingredients. The TSCA Inventory is a listing of chemicals in production at the time the Inventory was compiled. Chemicals entering commerce since 1977 through the Premanufacturing Notice (PMN) review process under Section 5 of TSCA also were screened for acute toxicity data and compared to the criteria for possible inclusion on the list.

Radioactive materials and chemical substances in research and development stages, as well as those manufactured, processed, or distributed in commerce for use as food additives, drugs, or cosmetics are not listed in the TSCA inventory and hence, were not considered. If research chemicals that meet the criteria are produced for commercial use under TSCA or for pesticide use under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), EPA will identify such chemicals through its PMN review program or pesticide registration program and list them under section 302 in future rulemakings. The Agency solicits comments concerning the addition of chemicals in food, drugs, cosmetics and radioactive materials to the list of extremely hazardous substances.

iv. Other Toxic Chemicals. Chemicals with acute lethality values not meeting the criteria values discussed in the previous section are not necessarily safe. In fact, many may be toxic to humans and may represent hazards to the community in accidental release situations. The Agency identified some of these potentially toxic chemicals using criteria based on factors such as high production volume, acute lethality, and known risk, as indicated by the fact that these chemicals have caused death and injury in accidents.

c. *List of 402 Chemicals:* Application of the criteria discussed above to the RTECS data base and subsequent review of the TSCA Inventory and the FIFRA active pesticide ingredient list led to the identification of 378 chemicals. In addition, one chemical meeting the toxicity criteria was identified from the Premanufacture Notices. Twenty-three additional chemicals were identified as potentially hazardous, using the criteria described above for "other toxic chemicals". These chemicals were added to the list on the basis of toxicity, high production volume, and known risk. The list of 402 extremely hazardous substances is set forth in Appendices D and E.

The Agency recognizes that the criteria used to establish the extremely hazardous substance list address only lethality, and do not account for all effects that may be associated with acute exposure to chemicals. Criteria are being considered for other health

effects after acute exposures to toxic chemicals. In addition, section 302 requires the Agency to also consider long-term health effects resulting from short-term exposures to these chemicals. The Agency does not presently have sufficient data on such effects and requests data from commenters on chronic effects from short-term exposures and comments on how these effects should be incorporated into criteria for revisions to the list. The Agency also requests any other comments on the appropriate criteria for additions to or deletions from the list.

A companion proposed rule, published elsewhere in today's **Federal Register**, specifically proposes the addition and deletion of certain substances from Appendices D and E.

2. Threshold Planning Quantities

A. *Statutory Requirement:* Under section 302 the Agency is required to develop threshold planning quantities for each of the 402 chemicals on the list of extremely hazardous substances and publish interim final quantities simultaneously with publication of the list. The threshold planning quantity is used to trigger reporting by facilities to the State emergency response commission. Any facility that has one or more of the chemicals on the list of extremely hazardous substances in quantities equal to or greater than the threshold planning quantity must provide notification to State emergency response commissions by April 17, 1987.

Section 302 specifies that the planning quantities may be based upon classes or categories of chemicals. If the Agency fails to develop threshold planning quantities for the chemicals on the extremely hazardous substances list, a quantity of two pounds is automatically established for each chemical.

b. Development of Threshold Planning Quantities: For many substances the potential for a serious accidental release resulting from an on-site quantity of two pounds is extremely remote. Therefore, threshold planning quantities of two pounds for all of the extremely hazardous chemicals could result in many unnecessary notifications, diverting the attention of emergency planners from facilities which may be of higher concern.

Because the Agency believes that the two pound threshold planning quantity for all 402 substances would overwhelm local emergency planning efforts and would not relate to the endangerment posed by individual substances, it is today establishing threshold planning quantities in lieu of the statutory level. The threshold planning quantities are designed to help State and local officials identify those sites where there is a greater potential for harm to the surrounding community if a release were to occur, thereby focusing resources on the priority emergency planning problems.

c. Methodology: The Agency considered four alternative approaches for development of the threshold planning quantities:

Approach 1. *Specific Quantity Prediction.* Under this approach the Agency would determine the specific quantity of each chemical that, if accidentally released, would result in significant acute health effects at a fixed distance from the release site.

Approach 2. *Dispersion/Toxicity Ranking Method.* Under this approach the Agency would assign chemicals to threshold planning quantity categories based on an index that accounts for the toxicity, the potential to become airborne, and the downwind dispersion of each chemical in an accidental release.

Approach 3. *Toxicity Ranking Method.* Under this alternative the Agency would assign categories of threshold planning quantities based solely on a toxicity index.

Approach 4. *Two Pound Quantity for All Chemicals.* Under this option, the default quantity of two (2) pounds would be used.

After considerable analysis, the Agency has chosen to develop threshold planning quantities using Approach 2. The methodology used in each approach is presented below along with a discussion of the approaches and the reasons why the Agency believes Approach 2 is the most appropriate for establishing threshold planning quantities. For details on the methodologies employed, refer to the Threshold Planning Quantities Technical Support Document, which is available in the public docket for this rule. Comments are solicited on the various approaches and the methodologies. Information on alternative approaches also is being sought by the Agency for consideration in the development of a revised final rule.

Methodology for Approach 1—Specific Quantity Prediction

The methodology for this approach is derived from the site specific guidance developed for the CEPP Interim Guidance. The methodology consists of initially determining a maximum short-term exposure concentration level in air ("level of concern") for each chemical that would not lead to serious health effects. The quantity of each chemical that would have to be released to the air to reach the "level of concern" is estimated using techniques for atmospheric dispersion and assessing physical/chemical properties.

This approach is a complex process designed to provide a specific threshold planning quantity for each of the 402 extremely hazardous substances. This section discusses the derivation of levels of concern, assumptions, concerning distance and release circumstances, and the dispersion modeling techniques used in the development of the threshold planning quantities under this approach.

To perform this analysis, a level of concern must be selected for each chemical, a representative distance from the release site to the exposed population must be determined, and the conditions and modeling techniques for release and dispersion must be selected for each chemical.

A level of concern was considered to be the maximum concentration of an extremely hazardous substance in air that will not cause serious irreversible health effects in the general population when exposed to the substance for relatively short duration. At present, no such exposure levels have been established specifically for the general public. The National Academy of Sciences and others have been developing guidelines for estimating such levels for toxic chemicals. However, at this time, values for only a few chemicals have been established.

In lieu of a value developed for the general public, the Agency has identified a surrogate measure of such an exposure level. This approximation is the Immediately Dangerous to Life and Health (IDLH) level which is available for 92 of the chemicals on the list of extremely hazardous substances. This level established by the National Institute for Occupational Safety and Health (NIOSH) represents the maximum concentration of a substance in air to which a healthy worker can be exposed for 30 minutes and escape without suffering irreversible health effects or impairing symptoms.

The Agency recognizes that the IDLH may have some limitations as a measure for protecting the general population. First, the IDLH is based upon the response of a healthy, male worker population and does not take into account exposure of more sensitive individuals such as the elderly, children, or people with various health problems. Second, the IDLH is based upon a maximum 30 minute exposure period which may not be realistic for accidental airborne releases. Third, the IDLH may not indicate the

concentration that could result in serious but reversible injury. Based on these considerations, the development of more appropriate chemical emergency exposure levels for the general public has been identified as a high priority for the Agency.

However, the IDLH value, or an estimation of this value for substances that do not have a published IDLH, appears at present to be the best approximation of a level of concern available for planning purposes. IDLH values for those substances with published values were used in the calculations for establishing threshold planning quantities.

Levels of concern were estimated from acute animal toxicity test data for the substances that did not have published IDLH values.

In these instances, the concentration used to establish threshold planning quantities is determined from LC_{50}, LC_{LO}, LD_{50}, or LD_{LO} data. The following equations show how these data are converted to air concentrations to approximate the IDLH level: (1) Estimated level of concern = $LC_{50} \times 0.1$; (2) estimated level of concern = LC_{LO}; (3) estimated level of concern = $LD_{50} \times 0.01$; and (4) estimated level of concern = $LD_{LO} \times 0.1$. As new information and methodologies become available in the future, the level of concern and the value derived for chemicals on the list should be re-evaluated.

A second critical input to the analysis is the distance from the source of the release to the exposed population. For the purposes of establishing planning quantities, the Agency chose a distance of 100 meters (330 feet) to represent the distance from a source inside a chemical facility to the point where the community might be exposed. The Agency believes that this distance is representative of the point at which the community might first be impacted for most situations. The Agency recognizes that it may be shorter than that found at large manufacturing facilities, (particularly those that also have a "buffer zone") or farther than that found at facilities located within urban centers. For example, an informal survey of chemical facilities in the Kanawha Valley (West Virginia) by the National Institute for Chemical Studies in Charleston, West Virginia, showed that the distances between storage vessels and residential housing may be as close as 25 feet (Meyer, 1986). However, there are limitations associated with atmospheric dispersion modeling techniques at distances less than 100 meters. Additionally, the Netherlands Safety Report Legislation indicates that releases that travel more than 100 meters are judged to be major accidents (Van Deputte, 1982).

Once the level of concern for each chemical was determined and a fixed distance was established, dispersion modeling techniques were used to calculate the quantity of airborne chemical required to generate the level of concern at 100 meters. Although techniques have long been available and used to address air pollution and nuclear fallout, the uses of dispersion modeling techniques to simulate the behavior of chemicals released under accidental conditions for very short time spans are largely still under development. The Agency's comparison of the several available dispersion modeling techniques is described in the Threshold Planning Quantities Technical Support Document available in the public docket for this rule.

A third critical aspect in the development of the methodology is the assumption made concerning the release of the chemical. An accidental release could be caused by a number of events such as a process upset (e.g. runaway reactions, temperature or pressure excursions leading to release), equipment failures (such as pipe rupture, equipment seal failure, valve leaks), handling accidents (such as overfilling containers and puncturing drums with a forklift), or fires and explosions that affect nearby containers or storage vessels of toxic substances. The release scenario generally determines the nature of the emission source and source strength which are critical to the dispersion consequences. Therefore analysis of potential release scenarios in complex and critical to the outcome.

The chemicals on the list were segregated by ambient physical state and grouped as gas, liquid or solid. Gases and liquids represent about half of the 402 chemicals on the list; the remainder are solids. In analyzing the chemicals released, scenarios were developed as follows: Gases were assumed to be stored under pressure such that if a leak, rupture or process upset occurred, a relief valve would open or a rupture would occur, causing a gas jet to be released. Liquids were assumed to be spilled on the ground at ambient conditions and allowed to volatilize. Liquified gases were also evaluated. Because neither of the two release scenarios above are appropriate for solids unless the solids are handled in molten or vaporized state, solids were assumed to be dispersed in powered form as an aerosol by some mechanical means (e.g. filtration unit failure, dust explosion, or other explosion) because this represents a more realistic emergency release scenario. The sublimation of a solid as a result of a spill was considered and rejected because volatilization of solids is so slow that it does not present an emergency release hazard.

Advantages and Limitations of Approach 1

Approach 1 was designed to determine a specific individual quantity for each chemical for purposes of emergency planning. The quantities calculated using this approach ranged from below one pound (for certain extremely toxic gases) to millions of pounds (for relatively involatile substances). The apparent rigor of the methodology, however, is somewhat misleading due to the uncertainty in the level of concern (IDLH), the release scenarios selected, the source strength inputs, and the ability to model both the release and dispersion. Also, most dispersion techniques are compatible with only a limited number of the many potential release events that could occur; the Agency has no data to show whether these events represent typical or worst case situations.

Assumptions used with the modeling techniques also cause wide variations in the results. In the case of gases, variations of several orders of magnitude are possible depending on the pressure at which the gas is stored, size of the release opening, density and velocity of the escaping gas. An accidental release is an extremely dynamic event. The dynamics associated with accidental releases are not considered in this analysis since little information is available for the potential release conditions likely for the chemicals on the list.

Finally, even if the Agency was fully confident of the release scenario, emission source modeling and dispersion techniques, a number of key parameters in the analysis are site-specific. These parameters include the distance from the source to the community or fenceline, the way in which the chemical is actually handled at the facility (e.g., at high temperatures and pressures, refrigerated, etc.), the topography of the area around the site, and prevailing meteorological conditions which can cause wide variation in the dispersion of airborne chemicals. In the absence of a valid empirical data base, the Agency must make assumptions concerning "reasonable" or "credible" characteristics of these site-specific factors. These assumptions are influenced by modeling capabilities as well as general knowledge of chemical manufacturing and processing

operations and greatly affect the accuracy of results.

For these reasons, the Agency has not used this approach to establish the threshold planning quantities in today's rule. However, because the selected methodology (Approach 2) relies on Approach 1 technical analyses, the Agency seeks comments and suggestions on the methodology used here for revision prior to issuance of a revised final rule.

Approach 2—Dispersion/Toxicity Ranking Method

The methodology for this approach makes use of the same technical analyses used in Approach 1 but uses them only to produce a ranking of the chemicals according to their potential to become airborne, dispersion potential and toxicological properties. This approach provides a basis for relative measures of concern rather than absolute values. Under Approach 2, the levels of concern are used as an index of toxicity, and physical state and volatility are used to assess their dispersion potential. The two indices are combined to produce an overall risk score or "ranking factor". Once the chemicals have been ranked, categories of quantity are assigned based on their relative ranking. The lowest rank (highest risk) are assigned low quantities and the highest rank (lowest risk) are assigned higher quantities.

To achieve this, the list of chemicals is again segregated by ambient physical state such as gas, liquid or solid. An index value is obtained by assuming that the level of concern is divided by the factor V, which represents the extent to which the material can become airborne and dispersed:

$$\text{Index} = \text{Level of Concern}/V$$

where V is the extent to which the chemical can become airborne. V is assumed to be 1 for chemicals that are gaseous at ambient conditions and for solids in powder form (e.g., flour, talc), that is, in an accidental release all of the chemical could become airborne. For liquids, V represents the extent of volatilization of a spilled quantity of liquid and is estimated by knowing the chemical's molecular weight and vapor pressure. See Attachment I at the end of this preamble for a derivation of the equations used to estimate V.

Once all the chemicals have been ranked, quantities are assigned to groups of chemicals on the list. In the Agency's evaluation of all of the chemicals, only nickel carbonyl is assigned a quantity of "any amount" and must be reported in any quantity because of its extremely high acute toxicity. Other chemicals with a low index factor, based on the Agency's technical review, are assigned a quantity of two pounds, the default quantity given by the Congress. With the exception of nickel carbonyl, it is believed that the two-pound quantity represents a reasonable lower limit for the most extremely hazardous substances on the list. Chemicals with the highest index factors (or rank) were assigned a threshold planning quantity of 10,000 pounds. This ensures that any facility with as much as a tank wagon or truck load of any extremely hazardous substances would be required to notify the State commission. Between the limits of two pounds and 10,000 pounds, chemicals were assigned to intermediate categories of 100, 500 or 1,000 pounds based on order of magnitude ranges in the index values. The selection of the intermediate categories was based on standard container sizes between two and 10,000 pounds. In summary, the allocations were as follows:

Index value:	*Threshold quantity (lb)*
$<1\times10^{-2}$	2
$>10^{-2}$ to $<10^{-1}$	100
$>10^{-1}$ to <1	500
>1 to <10	1,000
>10	10,000

Advantages and Limitations of Approach 2

The methods utilized in constructing the exposure and toxicity indices for Approach 2 are based upon, and therefore share the limitations of the methodologies utilized in Approach 1. In particular, NIOSH's IDLH or the Agency's estimated level of concern is an imperfect measure or an approximation of acute toxicity for emergency release situations involving the general public. In addition, the dispersion index is based upon specific release event assumptions. Changes in such assumptions could lead to changes in the rankings to a certain degree. Nevertheless, the Agency believes that this approach provides a consistent relative ranking of the extremely hazardous substances.

The selection of the particular cutoff values for the quantities is based wholly on the relative ranking among all of the substances on the list. Since this is a relative ranking scheme, there is no precision associated with the numbers and they should not be construed as "safe" levels. Because the Agency cannot evaluate every release scenario, it is possible that a serious event could occur with any quantity lower than the threshold planning quantity given by this approach. Conversely, some chemicals may be unlikely to cause serious events even at quantities significantly above their thresholds. However, the Agency believes that this approach yields threshold planning quantities which will focus initial community planning on those situations which present the greatest risk.

Methodology for Approach 3—Toxicity Ranking Method

This approach is similar to Approach 2 except that the chemicals on the list of extremely hazardous substances are ranked using only their level of concern as an index. As in Approach 2, the chemicals are assigned quantities ranging from any quantity for nickel carbonyl to 10,000 pounds with intermediate categories of 100, 500, and 1,000 pounds based upon a ranking of level of concern values.

Advantages and Limitations of Approach 3

By ignoring the potential for the chemical to become airborne, this approach simplifies the analysis but it may also distort local planning priorities. Although the Agency cannot assess all of the ways in which releases can occur, it is clear that physical state and vapor pressure greatly influence how much of the chemical actually gets into the air. Therefore, the Agency believes that consideration of the potential should be included in the development of a threshold planning quantity.

Approach 4—Default to 2 Pounds

Under this approach, EPA could take no action and allow the statutory thresholds to become effective.

Advantages and Limitations of Approach 4

A two pound quantity for each chemical is simple and straight-forward and ensures notification by facilities handling those chemicals that are deemed extremely hazardous in nature. However, it again ignores the potential for the chemical to actually become airborne, distorts local planning priorities and may cause local planning authorities to be overburdened by unnecessary notifications.

Conclusions

The Agency believes that Approach 2 is most appropriate for development of the threshold planning quantities because the quantities developed depend primarily on the toxicity of the chemical (level of concern) and degree

to which the chemical will become airborne; factors which are very important in deciding which chemicals are the most important from an emergency planning standpoint. The potential for the chemicals to become airborne is not considered in Approach 3. Although Approach I also addresses these factors, the apparent rigor of this methodology is not supported by the uncertainty of the assumptions and the models which must be applied. Therefore, the planning quantities derived from Approach 1 suggest a level of accuracy or precision that cannot reasonably be relied upon.

Technical support documents, which contain additional information on the approaches presented here and the outcome of applying the approaches, are available in the public docket. A list of these documents is set forth in Attachment II. Approach I provides a much broader range (from less than one pound to over one million pounds, depending upon the assumptions and models used) than the other approaches. The Threshold Planning Quantity Technical Support Document includes the results of applying Approach 1, using varying release scenarios and assumptions, for a representative group of chemicals. Approaches 2 and 3 result in a narrower range, with five planning quantity categories, and "any quantity" planning quantity for nicket carbonyl. Of these two latter approaches, only Approach 2 considers the degree to which the chemical will become airborne.

The Agency believes that limited State and local resources should be focused on those substances that potentially will cause the greatest harm should an accidental release occur. The quantities developed in Approach 2 meet the objective such that those that are most likely to cause serious problems (extremely toxic gases, solids likely to be readily dispersed, or highly volatile liquids) have lower quantities that those that might be toxic but are not likely to be released to the air.

The Agency applied the ranking methodology described in Approach 2 to the 402 extremely hazardous substances. Recognizing that a strictly mechanical application of this approach could lead to errors based on specific characteristics of individual chemicals, the Agency then subjected each chemical to a limited additional review to evaluate the technical reasonableness of the assignments. The threshold planning quantity allocations determined by the ranking methodology were examined and where appropriate changes to higher or lower threshold classifications were made based upon other toxicity data, rapid absorption chemical reactivity, specific handling, formulation, and use considerations and related factors. For example, sarin and tabun, which were assigned to the 100 pound category by the methodology applied, were assigned to the two pound category because information on their toxicity suggested that they may be even more toxic under conditions of an accidental release than is indicated by the estimated level of concern. Thirty chemicals were reassigned based on this review. The rationale for each such decision is being included in the public docket for this rulemaking. Finally one chemical, nickel carbonyl, had a ranking value so low the Agency decided that any quantity could be a potential problem. The threshold for this chemical was therefore set at "any quantity".

Further, in the case of Approach 2, it was decided that if a chemical in solid form is not handled or stored as a powder at a site and it is not reactive with air or water to become airborne or to form airborne toxic products or by-products (e.g., sodium cyanide), then it would be assigned a quantity of 10,000 lb. Although the Agency cannot identify which chemicals are stored or handled in powder form, it has identified 15 substances that are reactive with water or air which cannot be assigned a threshold planning quantity of 10,000 pounds regardless of their physical form. These substances are identified in the list of extremely hazardous substances and are discussed in the Technical Support Document on Reactive Solids, which is available in the public docket for this rule. The Agency solicits comments on whether nonreactive solids not handled as a powder should be deleted from the list of extremely hazardous substances, instead of assigning a default value of 10,000 pounds.

Many of the extremely hazardous chemicals are transported, used and stored in formulated products, which contain mixtures of chemicals. The potential hazard associated with extremely hazardous chemicals in mixtures depends on the concentration of the material as well as many factors specific to the composition of the formulations. The Agency has noted in the threshold planning quantities list, one case where it believes that common commercial formulations should not be considered for the purpose of notification under this regulation. In the case of hydrogen peroxide, the Agency does not believe that there is cause for concern with aqueous concentrations of equal to or less than 52 percent and designates this exception on the list of extremely hazardous substances. The Agency solicits comments on this concept, which is discussed in more detail in the technical document which addresses response to public comments on the CEPP interim guidance.

In all other cases, and in the absence of more specific information, the Agency believes that mixtures of formulations containing one (1) percent or more of an extremely hazardous substance should be evaluated for notification purposes. This means a mixture containing less than 1% of an extremely hazardous substance need not be factored into the calculation of the threshold planning quantity. The rationale for the 1% rule is the low probability of the release of such a mixture delivering the threshold planning quantity of the extremely hazardous substance to the environment. OSHA has selected this cutoff value of its Hazard Communication Rule (29 CFR 1900.1200) for all hazards except carcinogens.

In evaluating whether to notify for mixtures, facility owners or operators should compare the appropriate threshold quantity with the weight of the extremely hazardous substance in the mixture. For example, if the threshold for a given chemical on the list is 100 pounds and that chemical is 20 percent by weight of a mixture, notification would be necessary if 500 pounds or more of that mixture is present at a facility. Note, however, that no such deminimis exemption exists for emergency release reporting under section 304.

The Agency seeks comments on the methodology chosen to determine threshold planning quantities. Specifically, the Agency seeks comments on:

—Whether the ranking methodology selected (Approach 2) is appropriate for the categorization of the extremely hazardous substances by threshold quantity, and if not, which other approach might be preferable and why.

—Whether the specific toxicity and exposure indices, the IDLH (or calculated level of concern), and V, respectively, chosen are appropriate for constructing the index.

—Whether the Agency has set the threshold planning quantities for the extremely hazardous chemicals (ranging from any to 10,000 pounds) too high or too low in order to provide state and local planning authorities the information with which to effectively begin their emergency planning activities.

—Whether it is appropriate to establish a percentage below which extremely hazardous components of mixtures do not have to be considered and, if so, whether one percent or some other percentage is an appropriate cutoff level.
—Whether the chemical specific quantity adjustments to the determinations made under Approach 2 properly considered the individual characteristics of the adjusted chemicals, and whether other chemicals on the list also require quantity adjustments.
—Whether assigning threshold planning quantities of 10,000 pounds to non-powder, non-reactive solids adequately addresses concerns for these materials.
—Whether it is appropriate not to consider certain common commercial formulations for purposes of notification under this regulation and whether the designated reporting limit of greater than 52 percent aqueous hydrogen peroxide is appropriate.

C. Statutory Requirement of Interim Final Rulemaking and Solicitation of Public Comment

Section 302 of Title III of SARA requires the Administrator to publish a list of extremely hazardous substances within 30 days of enactment. The initial list is required to be the same as the list of substances published in November, 1985 by the Administrator in Appendix A of the Chemical Preparedness Program Interim Guidance. In addition, section 302 specifically requires the Administrator to publish interim final regulations establishing a threshold planning quantity for each substance on the list, and to initiate a rulemaking to revise these threshold planning quantities. Failure to establish the threshold planning quantities results in statutorily established threshold planning quantities of two pounds.

Although this rule is statutorily required to be effective immediately, the Agency is also, soliciting comment on all aspects of today's rule. In a companion proposed rule published elsewhere in today's **Federal Register**, the Agency is specifically initiating a rulemaking to revise today's rule as appropriate in response to public comment.

In addition, certain portions of today's rule have previously received the benefit of public scrutiny and comment. At the time the list of 402 extremely hazardous substances was first published by the Agency, it was part of a voluntary program to encourage localities to begin the process of planning for chemical contingencies occurring in their communities. Appendix A of the Chemical Emergency Preparedness Program Interim Guidance document was made public in November, 1985. That guidance identified those substances for which it was not enough to merely focus attention on cleanup of releases. Rather, because these substances, upon release, posed immediate and serious threats to the surrounding community, emergency planning and release prevention was necessary for effective protection of human health and the environment.

At the time of publication, comments were requested on the methodology for establishing the CEPP list. EPA received comments on the toxicity data used for specific chemicals, and revisions based on those comments are discussed in section II.B.2.c. above. A summary of these comments and the Agency's response has been incorporated into the public docket for this rule.

Today we are requesting comments on all aspects of this rule and are specifically soliciting comments on the criteria for establishing the extremely hazardous substance list, the threshold planning quantities and the methodologies for establishment of the quantities.

Comments must be submitted within 45 days of the publication of this regulation in the **Federal Register**. Upon completion of the 45 day comment period, the threshold planning quantities and supporting regulations will be finalized in a subsequent final rule as required by section 302, using the comments received as guidance in revision of this interim final rule. The comment period is shorter than that provided for many Agency rules, but is essential in order to allow a final rule to be published before May 17, 1987, when facility notifications are due.

III. Relationship to CERCLA

A. Relationship of Title III to CERCLA

Title III is a free-standing Title within SARA and thus is separate from, though closely related to, CERCLA. Because the Agency's CEPP effort was developed originally under CERCLA and because Title III emergency response and planning are closely linked to the hazardous substance release response program under CERCLA, the authorities and requirements created by Title III will be largely incorporated into the existing National Contingency Plan, established under CERCLA section 105.

B. Relationship of This Rulemaking to the National Contingency Plan

This rulemaking is a new Subpart I within the existing National Oil and Hazardous Substances Pollution Contingency Plan (NCP) (40 CFR 300). The NCP provides for an efficient, coordinated and effective response to discharges of oil and releases of hazardous substances, pollutants and contaminants in accordance with the authorities of CERCLA and section 311 of the Clean Water Act. The NCP establishes the national organization, policy and procedures for preparedness and response to environmental incidents. The Agency is now in the process of developing a rulemaking to comprehensively revise the NCP to incorporate other changes under SARA and will evaluate placement of Title III rules.

C. Relationship of this Rule to CERCLA Section 103 Reporting Requirements

Under section 103 of CERCLA, any person in charge of a facility at which there is a release of a hazardous substance as defined in CERCLA section 101(14) equal to or in excess of its reportable quantity must report immediately to the National Response Center. The National Response Center will then alert the appropriate federal emergency response personnel of the release. This notification includes transportation incidents as well as fixed facility emergencies.

The notification to the State emergency response commission under section 302 is not triggered by a release incident but rather by the presence of certain quantities an extremely hazardous substance at a facility. No release or event of any kind is required for a section 302 report. This notification is an initial action in a process that culminates in the development of community emergency response plans. Section 304 in contrast, establishes reporting requirements similar to CERCLA Section 103 release reporting. However, instead of requiring notification only to the National Response Center when certain quantities of certain chemicals are released, facilities must under section 304 also notify State and local emergency response officials of these releases.

A comparison of the reportable quantities established by the Agency under CERCLA for the purposes of emergency response with the threshold planning quantities in today's rule indicates that the quantities established under these lists are not entirely comparable. In fact, 26 adjusted reportable quantities were higher than the threshold planning quantities for the same extremely hazardous substance. As a result, emergency planning would be required for an amount on the plant

site which, if entirely released, would not require a reporting to the National Response Center or to the State commission. This has occurred as a result of the use of two different approaches for establishing reportable quantities and threshold planning quantities. Unlike CERCLA reportable quantities, the threshold planning quantities are based upon exposure potential. CERCLA reportable quantities are based solely on the intrinsic chemical and physical properties, or toxicity, of a hazardous substance.

During rulemakings to revise the final rule and to adjust reportable quantities under CERCLA and Title III, the Agency intends to evaluate and address, as appropriate, inconsistencies between the two methodologies, the underlying data base of each, and the resulting quantities.

IV. Regulatory Analyses

A. Regulatory Impact Analysis

Rulemaking protocol under Executive Order 12291 requires that regulations be classified as "major" or "non-major" for purposes of review by the Office of Management and Budget. According to E. O. 12291, major rules are regulations that are likely to result in (1) An annual adverse (cost) effect on the economy of $100 million, (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government, or geographical regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States based enterprises in domestic or export markets.

Because this rule was required by statute to be published in 30 days no further economic or regulatory impact analysis could be conducted by the Agency prior to the publication of this interim final rule. However, analyses of economic and regulatory impact will be completed for the revised final rule.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 requires that an analysis be performed for all rules that are likely to have a "significant impact on a substantial number of small entities." Based on the limited time available, the Agency did not conduct a formal flexibility analysis. However, the Agency has considered the impact on small entities and does not believe that this rule will have significant impact on a substantial number of small entities.

C. Paperwork Reduction Act

The reporting and notification requirements contained in this rule have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* and have been assigned OMB control number 2050–0046.

V. Supporting Information

A. List of Subjects

Chemicals, hazardous substances, extremely hazardous substances, intergovernmental relations, community right-to-know, natural resources, Superfund, Superfund. Amendments and Reauthorization Act, air pollution control, chemical accident prevention, chemical emergency preparedness, threshold planning quantity, community emergency response plan, contingency planning, reporting and recordkeeping requirements.

Dated: November 12, 1986.

Lee M. Thomas,

Administrator.

Attachment I

Technical Details for Approach 2 Determination of the Threshold Planning Quantity

In Approach 2, the index for ranking the chemicals on the list is:

$$\text{Index} = \text{Level of Concern}/V$$

where V represents the extent to which the chemical can become airborne and dispensed. For gases and solids V equals one, meaning all of the chemical once released can be potentially airborne. For liquids, V is calculated by estimating the rate of volatilization (mass vaporized per time) per mass of liquid spilled. The V may be generated as follows using equations from Clements (1981) (see also TRC, 1986)

The evaporation rate of a liquid into stagnant air may be estimated by:

$$G = (1.74 \times 10^{-4} MKAP)/(RT)$$

where G is the generation rate in pounds/minute; M, the molecular weight; K, mass transfer coefficient (cm/sec); A, surface area of the spill (cm^2); P is the vapor pressure of the chemical (mm Hg); R is the Universal Gas Constant (82.05 atm cm^3/g-mole °K) and T is the temperature of the liquid in °K. The mass transfer coefficient may be approximated by referencing the unknown chemical to water:

$$K = 0.83\ (18/M)^{0.33}$$

Combining equations gives:

$$G = (3.78 \times 10^{-4} M^{2/3} A P)/(R T)$$

The surface area of a spill (or pool) is primarily a function of spilled quantity provided the spill occurs on a flat, non-absorbing surface. The depth of the pool is assumed to be 1 cm; although if the area around a storage vessel is diked or not flat where puddling could take place, deeper levels could occur for the same surface area of spilled material. In the absence of specific information about the size of diked area for each liquid, we assume that the spill is 1 cm deep and has density about that of water (1 gm/cm^3):

$$\text{Area } (cm^2) = 454\ (gm/lb)\ Q\ (lb)\ /\ 1\ (gm/cm^3)\ 1\ (cm) = 454\ Q$$

Substituting and assuming the liquid is at its boiling temperatures (P=760, T>boiling point):

$$G/Q = V = 1.6\ M/^{0.67}\ /\ (T+273)$$

where G/Q represents the rate of volatilization per mass of liquid spilled. Note that V was estimated for liquids at their boiling point rather than at ambient temperatures. Conditions during accidental releases are likely to vary and to involve heat (e.g. fires, exothermic runaway reactions or reactions with air or water) causing more rapid volatilization of the liquid. The Agency recognizes that spills at ambient temperatures are also likely and that the rate of volatilization may be impacted by heat from the surroundings, subcooling due to evaporation and flashing from superheated conditions. However, for purposes of developing a relative ranking between substances volatilization at boiling points was utilized and consideration of other conditions for all chemicals is not expected to greatly reorder the ranking of chemicals.

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Meyer, 1986. Telephone discussion with G.I. Meyer, National Institute for Chemical Studies (NICS) Charleston, W.VA. July, 1986.

TRC, 1986. "Evaluation and Assessment of Models for Emergency Response Planning" prepared for CMA, TRC Environmental Consultants, Inc. April 1986.

Clements, 1981. "Mathematical Models for Estimating Workplace Concentration Levels: A Literature Review" USEPA, Clement Associates, October 1981.

Attachment II

List of Technical Support Documents

1. Responses to Public Comments on the Chemical Emergency Preparedness Program Interim Guidance and Chemical Profiles
2. Proposed Changes to the List of Extremely Hazardous substances
3. Chemicals that were Assigned Different Threshold Planning

Quantities from the Calculated Index Value
4. Reactive Solids Whose Threshold Planning Quantities Should Not Become 10,000 Pounds
5 Alphabetical Listing of Synonyms for the List of Extremely Hazardous Substances
6. Threshold Planning Quantities Technical Support Document
7. Technical Support Document for Determination of Levels of Concern
8. The Criteria Used to Identify Extremely Hazardous Substances
9. Chemical Emergency Preparedness Program Interim Guidance—November, 1986
10.Chemical Profiles on the List of 402 Extremely Hazardous Substances

For the reasons set out in the Preamble, Title 40 of the Code of Federal Regulations is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

1. The authority citation for Part 300 is revised to read as follows:

Authority: Sec. 105 Pub. L. 98–510, 94 Stat. 2764, 42 U.S.C. 9505 and sec. 311(c)(2), Pub. L. 92–500 as amended, 86 Stat. 865, 33 U.S.C. 1321(c)(2) and secs. 302, 303, 305, 325 and 328, Pub. L. 99–499; E.O. 12316, 46 FR 42237 (August 20, 1981); E.O. 11735, 38 FR 21243 (August 1973).

2. The table of contents of Part 300 is amended by adding a new Subpart I as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

Subpart I—Emergency Planning and Community Right to Know

Sec.
300.91 Purpose.
300.92 Definitions.
300.93 Emergency planning.
300.94 Emergency release notification.
300.95 Penalties.

3. Following Subpart H in Part 300, a new Subpart I is added as follows:

Subpart I—Emergency Planning and Community Right to Know

§ 300.91 Purpose.

This regulation establishes the list of extremely hazardous substances, threshold planning quantities, and facility notification responsibilities necessary for the development and implementation of State and local emergency response plans.

§ 300.92 Definitions.

Terms not specifically defined in this section have the same meaning as in Subpart A of this part.

Act means the Superfund Amendments and Reauthorization Act of 1986.

CERCLA Hazardous Substance means a substance listed in Table 302.4 of 40 CFR Part 302.

Commission means the State of emergency response commission (or, for the purpose of emergency planning, the Governor if there is no commission) for the State in which the facility is located.

Environment includes water, air, and land and the interrelationship which exists among and between water, air, and land and all living things.

Extremely hazardous substance means a substance listed in Appendix D of this part.

Facility means all buildings, equipment, structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with, such person). For purposes of emergency release notification, the term includes motor vehicles, rolling stock, and aircraft.

Hazardous Chemical means any hazardous chemical as defined under § 1910.1200(c) of Title 29 of the Code of Federal Regulations, except that such term does not include the following substances:

(1) Any food, food additive, color additive, drug, or cosmetic regulated by the Food and Drug Administration.

(2) Any substance present as a solid in any manufactured item to the extent exposure to the substance does not occur under normal conditions of use.

(3) Any substance to the extent it is used for personal, family, or household purposes, or is present in the same form and concentration as a product packaged for distribution and use by the general public.

(4) Any substance to the extent it is used in a research laboratory or a hospital or other medical facility under the direct supervision of a technically qualified individual.

(5) Any substance to the extent it is used in routine agricultural operations or is a fertilizer held for sale by a retailer to the ultimate customer.

Person means any individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or interstate body.

Release means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers, and other closed receptacles) of any hazardous chemical, extremely hazardous substance, or CERCLA hazardous substance.

Reportable quantity means, for any CERCLA hazardous substance, the reportable quantity established in Table 302.4 of 40 CFR Part 302, for such substance; for any other substance, the reportable quantity is one pound.

Threshold planning quantity means for a substance listed in Appendix D, the quantity listed in the column "threshold planning quantity" for that substance.

§ 300.93 Emergency planning.

(a) *Applicability.* The requirements of this section apply to any facility at which there is present an amount of any extremely hazardous substance in excess of its threshold planning quantity, or designated, after public notice and opportunity for comment, by the Commission or the Governor for the State in which the facility is located.

(b) *Emergency Planning Notification.* The owner or operator of a facility subject to this section shall provide notification to the commission that it is a facility subject to the emergency planning requirements of this subpart. Such notification shall be provided: (1) On or before May 17, 1987 or (2) within sixty days after a facility first becomes subject to the requirements of this section, whichever is later.

(c) *Facility Emergency Coordinator.* The owner or operator of a facility subject to this Section shall designate a facility representative who will participate in the local emergency planning process as a facility emergency response coordinator. The owner or operator shall notify the local emergency planning committee (or the Governor if there is no committee) of the facility representative on or before September 17, 1987 or 30 days after establishment of a local emergency planning committee, whichever is earlier.

(d) *Provision of Information.* (1) The owner or operator of a facility subject to this section shall inform the local emergency planning committee of any changes occurring at the facility which may be relevant to emergency planning.

(2) Upon request of the local emergency planning committee, the owner or operator of a facility subject to this section shall promptly provide to

the committee any information necessary for development or implementation of the local emergency plan.

(Approved by the Office of Management and Budget under the control Number 2050–0046)

§ 300.94 Emergency release notification.

(a) *Applicability.* The requirements of this Section apply to any facility: (1) At which a hazardous chemical is produced, used, or stored and (2) at which there is release of a reportable quantity of any extremely hazardous substance or CERCLA hazardous substance which results in exposure to persons outside of the boundaries of the facility. This Section does not apply to any such release which is a federally permitted release.

(b) *Notice Requirements.* (1) The owner or operator of a facility subject to this Section shall immediately notify the local emergency coordinator for the local emergency planning committee of any area likely to be affected by the release and the State emergency planning commission of any State likely to be affected by the release. If there is no local emergency planning committee or State emergency planning commission, notification shall be provided under this section to relevant local or state emergency response personnel.

(2) The notice required under this Section shall include the following to the extent known at the time of notice and so long as no delay in notice or emergency response results:

(i) The chemical name or identity of any substance involved in the release.

(ii) An indication of whether the substance is on the list referred to in section 302(a).

(iii) An estimate of the quantity of any such substance that was released into the environment.

(iv) The time and duration of the release.

(v) The medium or media into which the release occurred.

(vi) Any known or anticipated acute or chronic health risks associated with the emergency and, where appropriate, advice regarding medical attention necessary for exposed individuals.

(vii) Proper precautions to take as a result of the release, including evacuation (unless such information is readily available to the community emergency coordinator pursuant to the emergency plan).

(viii) The name and telephone number of the person or persons to be contacted for further information.

(3) As soon as practicable after a release which requires notice under (b)(1) of this section, such owner or operator shall provide a written follow-up emergency notice (or notices, as more information becomes available) setting forth and updating the information required under paragraph (b)(2) of this section, and including additional information with respect to—

(i) Actions taken to respond to and contain the release,

(ii) Any known or anticipated acute or chronic health risks associated with the release, and,

(iii) Where appropriate, advice regarding medical attention necessary for exposed individuals.

(4) Exceptions. (i) In lieu of the notices specified in paragraphs (b) (2) and (3) of this section, any owner or operator of a facility subject to this section from which there is a release of a CERCLA hazardous substance which is not an extremely hazardous substance and has a statutory reportable quantity may provide the same notice required under CERCLA section 103(a) to the local emergency planning committee.

(ii) In lieu of the notices specified in paragraphs (b) (2) and (3) of this section, any owner or operator of a facility subject to this section from which there is a release during transportation or storage incident to transportation, may provide notice by dialing 911 or, in the absence of a 911 emergency telephone number, calling the operator.

(Approved by the Office of Management and Budget under the control number 2050–0046)

§ 300.95 Penalties.

(a) *Civil Penalties.* Any person who fails to comply with the requirements of § 300.94 shall be subject to civil penalties of up to $25,000 for each violation in accordance with section 325(b)(1) of the Act.

(b) *Civil Penalties for Continuing Violations.* Any person who fails to comply with the requirements of § 300.94 shall be subject to civil penalties of up to $25,000 for each day during which the violation continues, in accordance with section 325(b)(2) of the Act. In the case of a second or subsequent violation, any such person may be subject to civil penalties of up to $75,000 for each day the violation continues, in accordance with section 325(b)(2) of the Act.

(c) *Criminal Penalties.* Any person knowingly and willfully fails to provide notice in accordance with § 300.94 shall, upon conviction, be fined not more than $25,000 or imprisoned for not more than two (2) years, or both (or, in the case of a second or subsequent conviction, shall be fined not more than $50,000 or imprisoned for not more than five (5) years, or both, in accordance with 325(b)(4) of the Act.

3. Following Appendix C of Part 300 new Appendix D and Appendix E are added as follows:

APPENDIX D.—LIST OF EXTREMELY HAZARDOUS SUBSTANCES, THRESHOLD PLANNING QUANTITIES, AND REPORTABLE QUANTITIES

[Alphabetical Order]

Chemical name	CAS No.	Ambient physical state	Threshold planning quantity (pounds)	Reportable quantity (pounds)
Acetone cyanohydrin	75-86-5	Liquid	1,000	10
Acetone thiosemicarbazide	1752-30-3	Solid	1,000	[1] 1
Acrolein	107-02-8	Liquid	500	1
Acrylamide	79-06-1	Solid	1,000	5,000
Acrylonitrile	107-13-1	Liquid	10,000	[2] 100
Acrylyl chloride	814-68-6	Liquid	500	[1] 1
Adiponitrile	111-69-3	Liquid	1,000	[1] 1
Aldicarb	116-06-3	Solid	[3] 100	1
Aldrin	309-00-2	Solid	500	[2] 1
Allyl alcohol	107-18-6	Liquid	1,000	100
Allylamine	107-11-9	Liquid	500	[1] 1
Aluminum phosphide	20859-73-8	Solid	[4] 500	100
Aminopterin	54-62-6	Solid	500	[1] 1
Amiton	78-53-5	Liquid	500	[1] 1
Amiton oxalate	3734-97-2	Solid	100	[1] 1
Ammonia	7664-41-7	Gas	500	100
Ammonium chloroplatinate	[5] 16919-58-7	Solid	10,000	[1] 1
Amphetamine	300-62-9	Liquid	1,000	[1] 1
Aniline	62-53-3	Liquid	1,000	5,000

APPENDIX D.—LIST OF EXTREMELY HAZARDOUS SUBSTANCES, THRESHOLD PLANNING QUANTITIES, AND REPORTABLE QUANTITIES—Continued

[Alphabetical Order]

Chemical name	CAS No.	Ambient physical state	Threshold planning quantity (pounds)	Reportable quantity (pounds)
Aniline, 2,4,6-trimethyl-	88-05-1	Liquid	500	[1] 1
Antimony pentaflouride	7783-70-2	Liquid	500	[1] 1
Antimycin A	1397-94-0	Solid	[3] 1,000	[1] 1
Antu	86-88-4	Solid	500	100
Arsenic pentoxide	1303-28-2	Solid	100	[2] 5,000
Arsenous oxide	1327-53-3	Solid	500	[2] 5,000
Arsenous trichloride	7784-34-1	Liquid	500	[2] 5,000
Arsine	7784-42-1	Gas	100	[1] 1
Azinphos-ethyl	2642-71-9	Solid	100	[1] 1
Azinphos-methyl	86-50-0	Solid	2	1
Bacitracin	[5] 1405-87-4(a)	Solid	10,000	[1] 1
Benzal chloride	98-87-3	Liquid	500	5,000
Benzenamine, 3-(trifluoromethyl)-	98-16-8	Liquid	500	[1] 1
Benzene, 1-(chloromethyl)-4-Nitro-	100-14-1	Solid	500	[1] 1
Benzenearsonic acid	98-05-5	Solid	2	[1] 1
Benzenesulfonyl chloride	[5] 98-09-9	Liquid	10,000	100
Benzotrichloride	98-07-7	Liquid	100	[2] 1
Benzyl chloride	100-44-7	Liquid	500	[2] 100
Benzyl cyanide	140-29-4	Liquid	1,000	[1] 1
Bicyclo[2.2.1]heptane-2-carbonitrile, 5-chloro-6-((((methylamino)Carbonyl)oxy)Im	15271-41-7	Solid	500	[1] 1
Bix(chloromethyl) ketone	534-07-6	Solid	2	[1] 1
Bitoscanate	4044-65-9	Solid	500	[1] 1
Boron trichloride	10294-34-5	Liquid	500	[1] 1
Boron trifluoride	7637-07-2	Gas	500	[1] 1
Boron trifluoride compound with methyl ether (1:1)	353-42-4	Liquid	1,000	[1] 1
Bromadiolone	28772-56-7	Solid	100	[1] 1
Bromine	7726-95-6	Liquid	500	[1] 1
Butadiene	[5] 106-99-0	Gas	10,000	[1] 1
Butyl isovalerate	[5] 109-19-3	Liquid	10,000	[1] 1
Butyl vinyl ether	[5] 111-34-2	Liquid	10,000	[1] 1
C.I. basic green 1	[5] 633-03-4	Solid	10,000	[1] 1
Cadmium oxide	1306-19-0	Solid	100	[1] 1
Cadmium stearate	2223-93-0	Solid	[3] 1,000	[1] 1
Calcium arsenate	7778-44-1	Solid	500	[2] 1,000
Camphechlor	8001-35-2	Solid	500	[2] 1
Cantharidin	56-25-7	Solid	100	[2] 1
Carbachol chloride	51-83-2	Solid	500	[1] 1
Carbamic acid, methyl-, 0-(((2,4-Dimethyl-1, 3-Dithiolan-2-yl)Methylene)Amino)-	26419-73-8	Solid	100	[1] 1
Carbofuran	1563-66-2	Solid	2	10
Carbon disulfide	75-15-0	Liquid	10,000	100
Carbophenothion	786-19-6	Liquid	500	[1] 1
Carvone	[5] 2244-16-8	Liquid	10,000	[1] 1
Chlordane	57-74-9	Liquid	1,000	[2] 1
Chlorfenvinfos	470-90-6	Liquid	500	[1] 1
Chlorine	7782-50-5	Gas	100	10
Chlormephos	24934-91-6	Liquid	500	[1] 1
Chlormequat chloride	999-81-5	Solid	1,000	[1] 1
Chloroacetaldehyde	[5] 107-20-0	Liquid	10,000	1,000
Chloroacetic acid	79-11-8	Solid	100	[1] 1
Chloroethanol	107-07-3	Liquid	500	[1] 1
Chloroethyl chloroformate	627-11-2	Liquid	1,000	[1] 1
Chloroform	67-66-3	Liquid	10,000	[2] 5,000
Chloromethyl ether	542-88-1	Liquid	1,000	[2] 1
Chloromethyl methyl ether	107-30-2	Liquid	[3] 100	[2] 1
Chlorophacinone	3691-35-8	Solid	100	[1] 1
Chloroxuron	1982-47-4	Solid	500	[1] 1
Chlorthiophos	21923-23-9	Liquid	1,000	[1] 1
Chromic chloride	10025-73-7	Solid	2	[1] 1
Cobalt	[5] 7440-48-4	Solid	10,000	[1] 1
Cobalt carbonyl	10210-68-1	Solid	100	[1] 1
Cobalt, ((2,2'-(1,2-ethanediylbis (nitrilomethylidyne))bis(6-fluorophenolato))(2)	62207-76-5	Solid	100	[1] 1
Colchicine	64-86-8	Solid	100	[1] 1
Coumafuryl	[5] 117-52-2	Solid	10,000	[1] 1
Coumaphos	56-72-4	Solid	100	10
Coumatetralyl	5836-29-3	Solid	500	[1] 1
Cresol, o-	95-48-7	Solid	1,000	[2] 1,000
Crimidine	535-89-7	Solid	100	[1] 1
Crotonaldehyde	4170-30-3	Liquid	1,000	100
Crotonaldehyde, (E)-	123-73-9	Liquid	1,000	100
Cyanogen bromide	506-68-3	Solid	500	1,000
Cyanogen iodide	506-78-5	Solid	1,000	[1] 1
Cyanophos	2636-26-2	Liquid	1,000	[1] 1
Cyanuric fluoride	675-14-9	Liquid	100	[1] 1
Cycloheximide	66-81-9	Solid	100	[1] 1
Cyclohexylamine	108-91-8	Liquid	10,000	[1] 1
Cyclopentane	[5] 287-92-3	Liquid	10,000	[1] 1
Decaborane (14)	17702-41-9	Solid	500	[1] 1
Demeton	8065-48-3	Liquid	500	[1] 1
Demeton-s-methyl	919-86-8	Liquid	500	[1] 1
Dialifos	10311-84-9	Solid	100	[1] 1
Diborane	19287-45-7	Gas	100	[1] 1
Dibutyl phthalate	[5] 84-74-2	Liquid	10,000	10
Dichlorobenzalkonium chloride	[5] 8023-53-8	Solid	10,000	[1] 1
Dichloroethyl ether	111-44-4	Liquid	10,000	[2] 1
Dichloromethylphenylsilane	149-74-6	Liquid	1,000	[1] 1
Dichlorvos	62-73-7	Liquid	1,000	10
Dicrotophos	141-66-2	Liquid	100	[1] 1
Diepoxybutane	1464-53-5	Liquid	500	[2] 1
Diethyl chlorophosphate	814-49-3	Liquid	1,000	[1] 1

APPENDIX D.—LIST OF EXTREMELY HAZARDOUS SUBSTANCES, THRESHOLD PLANNING QUANTITIES, AND REPORTABLE QUANTITIES—Continued

[Alphabetical Order]

Chemical name	CAS No.	Ambient physical state	Threshold planning quantity (pounds)	Reportable quantity (pounds)
Diethyl-p-phenylenediamine	[5] 93-05-0	Liquid	10,000	[1] 1
Diethylcarbamazine citrate	1642-54-2	Solid	100	[1] 1
Digitoxin	71-63-6	Solid	[3] 100	[1] 1
Diglycidyl ether	2238-07-5	Liquid	1,000	[1] 1
Digoxin	20830-75-5	Solid	100	[1] 1
Dimefox	115-26-4	Liquid	500	[1] 1
Dimethoate	60-51-5	Solid	500	10
Dimethyl phosphorochloridothioate	2524-03-0	Liquid	500	[1] 1
Dimethyl phthalate	[5] 131-11-3	Liquid	10,000	5,000
Dimethyl sulfate	77-78-1	Liquid	500	[2] 1
Dimethyl sulfide	75-18-3	Liquid	100	1
Dimethyl-p-phenylenediamine	99-98-9	Solid	2	[1] 1
Dimethyldichlorosilane	75-78-5	Liquid	10,000	[1] 1
Dimethylhydrazine	57-14-7	Liquid	1,000	[2] 1
Dimetilan	644-64-4	Solid	500	[1] 1
Dinitrocresol	534-52-1	Solid	2	10
Dinoseb	88-85-7	Solid	100	1,000
Dinoterb	1420-07-1	Solid	500	[1] 1
Dioctyl phthalate	[5] 117-84-0	Liquid	10,000	5,000
Dioxathion	78-34-2	Liquid	500	[1] 1
Dioxolane	[5] 646-06-0	Liquid	10,000	[1] 1
Diphacinone	82-66-6	Solid	2	[1] 1
Diphosphoramide, octamethyl-	152-16-9	Liquid	100	100
Disulfoton	298-04-4	Liquid	500	1
Dithiazanine iodide	514-73-8	Solid	500	[1] 1
Dithiobiuret	541-53-7	Solid	100	100
Emetine, dihydrochloride	316-42-7	Solid	1,000	[1] 1
Endosulfan	115-29-7	Solid	2	1
Endothion	2778-04-3	Solid	500	[1] 1
Endrin	72-20-8	Solid	500	1
Epichlorohydrin	106-89-8	Liquid	1,000	[2] 1,000
EPN	2104-64-5	Solid	100	[1] 1
Ergocalciferol	50-14-6	Solid	[3] 1,000	[1] 1
Ergotamine tartrate	379-79-3	Solid	500	[1] 1
Ethanesulfonyl chloride, 2-chloro-	1622-32-8	Liquid	500	[1] 1
Ethanol, 1,2-dichloro-, acetate	10140-87-1	Liquid	1,000	[1] 1
Ethion	563-12-2	Liquid	1,000	10
Ethoprophos	13194-48-4	Liquid	1,000	[1] 1
Ethyl thiocyanate	542-90-5	Liquid	10,000	[1] 1
Ethylbis(2-chloroethyl)amine	538-07-8	Liquid	10,000	[1] 1
Ethylene fluorohydrin	371-62-0	Liquid	[3] 2	[1] 1
Ethylene oxide	75-21-8	Gas	1,000	[2] 1
Ethylenediamine	107-15-3	Liquid	10,000	5,000
Ethyleneimine	151-56-4	Liquid	500	[2] 1
Ethylmercuric phosphate	[5] 2235-25-8	Solid	10,000	[1] 1
Fenamiphos	22224-92-6	Solid	2	[1] 1
Fenitrothion	122-14-5	Liquid	500	[1] 1
Fensulfothion	115-90-2	Liquid	1,000	[1] 1
Fluenetil	4301-50-2	Solid	100	[1] 1
Fluorine	7782-41-4	Gas	100	10
Fluoroacetamide	640-19-7	Solid	[3] 2	100
Fluoroacetic acid	144-49-0	Solid	2	[1] 1
Fluoroacetyl chloride	359-06-8	Liquid	[3] 2	[1] 1
Fluorouracil	51-21-8	Solid	500	[1] 1
Fonofos	944-22-9	Liquid	500	[1] 1
Formaldehyde	50-00-0	Gas	500	[3] 1,000
Formaldehyde cyanohydrin	107-16-4	Liquid	10,000	[1] 1
Formetanate	23422-53-9	Solid	100	[1] 1
Formothion	2540-82-1	Liquid	100	[1] 1
Formparanate	17702-57-7	Solid	100	[1] 1
Fosthietan	21548-32-3	Liquid	500	[1] 1
Fuberidazole	3878-19-1	Solid	100	[1] 1
Furan	110-00-9	Liquid	500	100
Gallium trichloride	13450-90-3	Solid	500	[1] 1
Hexachlorocyclopentadiene	77-47-4	Liquid	500	[2] 1
Hexachloronaphthalene	[5] 1335-87-1	Solid	10,000	[1] 1
Hexamethylenediamine, N,N'-dibutyl-	4835-11-4	Liquid	500	[1] 1
Hydrazine	302-01-2	Liquid	1,000	[2] 1
Hydrocyanic acid	74-90-8	Gas	100	10
Hydrogen chloride	7647-01-0	Gas	500	5,000
Hydrogen fluoride	7664-39-3	Gas	100	100
Hydrogen peroxide (concentration greater than 52%)	7722-84-1	Liquid	1,000	[1] 1
Hydrogen selenide	7783-07-5	Gas	2	[1] 1
Hydrogen sulfide	7783-06-4	Gas	500	100
Hydroquinone	123-31-9	Solid	500	[1] 1
Indomethacin	[5] 53-86-1	Solid	10,000	[1] 1
Iridium tetrachloride	[5] 10025-97-5	Solid	10,000	[1] 1
Iron, Pentacarbonyl-	[5] 13463-40-6	Liquid	100	[1] 1
Isobenzan	297-78-9	Solid	100	[1] 1
Isobutyronitrile	78-82-0	Liquid	10,000	[1] 1
Isocyanic acid, 3,4-dichlorophenyl ester	102-36-3	Solid	500	[1] 1
Isodrin	465-73-6	Solid	100	1
Isofluorphate	55-91-4	Liquid	[3] 100	100
Isophorone diisocyanate	4098-71-9	Solid	[4] 100	[1] 1
Isopropyl chloroformate	108-23-6	Liquid	1,000	[1] 1
Isopropyl formate	625-55-8	Liquid	500	[1] 1
Isopropylmethylpyrazolyl dimethylcarbamate	119-38-0	Liquid	500	[1] 1
Lactonitrile	78-97-7	Liquid	1,000	[1] 1
Leptophos	21609-90-5	Solid	500	[1] 1

APPENDIX D.—LIST OF EXTREMELY HAZARDOUS SUBSTANCES, THRESHOLD PLANNING QUANTITIES, AND REPORTABLE QUANTITIES—Continued

[Alphabetical Order]

Chemical name	CAS No.	Ambient physical state	Threshold planning quantity (pounds)	Reportable quantity (pounds)
Lewisite	541-25-3	Liquid	[3] 2	[1] 1
Lindane	58-89-9	Solid	1,000	[2] 1
Lithium hydride	7580-67-8	Solid	[4] 100(b)	[1] 1
Malononitrile	109-77-3	Solid	500	1,000
Manganese, tricarbonyl methylcyclopentadienyl	12108-13-3	Liquid	10,000	[1] 1
Mechlorethamine	51-75-2	Liquid	[3] 2	[1] 1
Mephosfolan	950-10-7	Liquid	500	[1] 1
Mercuric acetate	1600-27-7	Solid	500	[1] 1
Mercuric chloride	7487-94-7	Solid	500	[1] 1
Mercuric oxide	21908-53-2	Solid	500	[1] 1
Mesitylene	[5] 108-67-8	Liquid	10,000	[1] 1
Methacrolein diacetate	10476-95-6	Liquid	1,000	[1] 1
Methacrylic anhydride	760-93-0	Liquid	500	[1] 1
Methacrylonitrile	126-98-7	Liquid	10,000	1,000
Methacryloyl chloride	920-46-7	Liquid	100	[1] 1
Methacryloyloxyethyl isocyanate	30674-80-7	Liquid	500	[1] 1
Methamidophos	10265-92-6	Solid	100	[1] 1
Methanesulfonyl fluoride	558-25-8	Liquid	1,000	[1] 1
Methidathion	950-37-8	Solid	500	[1] 1
Methiocarb	2032-65-7	Solid	500	10
Methomyl	16752-77-5	Solid	1,000	100
Methoxyethylmercuric acetate	151-38-2	Solid	500	[1] 1
Methyl 2-chloroacrylate	80-63-7	Liquid	500	[1] 1
Methyl bromide	74-83-9	Gas	1,000	1,000
Methyl chloroformate	79-22-1	Liquid	10,000	1,000
Methyl disulfide	624-92-0	Liquid	100	[1] 1
Methyl isocyanate	624-83-9	Liquid	500	[6] 1
Methyl isothiocyanate	556-61-6	Solid	[4] 500	[1] 1
Methyl mercaptan	74-93-1	Gas	500	100
Methyl phenkapton	3735-23-7	Liquid	500	[1] 1
Methyl phosphonic dichloride	676-97-1	Solid	[4] 100	[1] 1
Methyl thiocyanate	556-64-9	Liquid	10,000	[1] 1
Methyl vinyl ketone	78-94-4	Liquid	2	[1] 1
Methylhydrazine	60-34-4	Liquid	500	10
Methylmercuric dicyanamide	502-39-6	Solid	500	[1] 1
Methyltrichlorosilane	75-79-6	Liquid	10,000	[1] 1
Metolcarb	1129-41-5	Solid	100	[1] 1
Mevinphos	7786-34-7	Liquid	500	10
Mexacarbate	315-18-4	Solid	500	1,000
Mitomycin C	50-07-7	Solid	500	[2] 1
Monocrotophos	6923-22-4	Solid	2	[1] 1
Muscimol	2763-96-4	Solid	500	1,000
Mustard gas	505-60-2	Liquid	1,000	[1] 1
Nickel	[5] 7440-02-0	Solid	10,000	[2] 1
Nickel carbonyl	13463-39-3	Liquid	[3] Any	[2] 1
Nicotine	54-11-5	Liquid	[3] 100	100
Nicotine sulfate	65-30-5	Solid	100	[1] 1
Nitric acid	7697-37-2	Liquid	1,000	1,000
Nitric oxide	10102-43-9	Gas	[3] 100	10
Nitrobenzene	98-95-3	Liquid	10,000	1,000
Nitrocyclohexane	1122-60-7	Liquid	500	[1] 1
Nitrogen dioxide	10102-44-0	Gas	100	10
Nitrosodimethylamine	62-75-9	Liquid	500	[2] 1
Norbormide	991-42-4	Solid	100	[1] 1
Organorhodium complex (PMN-82-147)	0	Solid	2	[1] 1
Orotic acid	[5] 65-86-1	Solid	10,000	[1] 1
Osmium tetroxide	[5] 20816-12-0	Solid	10,000	1,000
Ouabain	630-60-4	Solid	[3] 100	[1] 1
Oxamyl	23135-22-0	Solid	100	[1] 1
Oxetane, 3,3-bis(chloromethyl)-	78-71-7	Liquid	500	[1] 1
Oxydisulfoton	2497-07-6	Liquid	1,000	[1] 1
Ozone	10028-15-6	Gas	100	[1] 1
Paraquat	1910-42-5	Solid	2	[1] 1
Paraquat methosulfate	2074-50-2	Solid	2	[1] 1
Parathion	56-38-2	Liquid	[3] 100	[2] 1
Parathion-methyl	298-00-0	Solid	[3] 100	100
Paris green	12002-03-8	Solid	500	[2] 100
Pentaborane	19624-22-7	Liquid	500	[1] 1
Pentachloroethane	[5] 76-01-7	Liquid	10,000	[2] 1
Pentachlorophenol	[5] 87-86-5	Solid	10,000	[2] 10
Pentadecylamine	2570-26-5	Solid	100	[1] 1
Peracetic acid	79-21-0	Liquid	500	[1] 1
Perchloromethylmercaptan	594-42-3	Liquid	500	100
Phenol	108-95-2	Solid	500	1,000
Phenol, 2,2'-thiobis(4,6-dichloro-	97-18-7	Solid	100	[2] 1
Phenol, 2,2'-thiobis[4-chloro-6-methyl-	4418-66-0	Solid	100	[2] 1
Phenol, 3-(1-methylethyl)-, methylcarbamate	64-00-6	Solid	500	[2] 1
Phenoxarsine, 10,10'-oxydi-	58-36-6	Solid	500	[2] 1
Phenyl dichloroarsine	696-28-6	Liquid	1,000	[2] 1
Phenylhydrazine hydrochloride	59-88-1	Solid	1,000	[2] 1
Phenylmercury acetate	62-38-4	Solid	500	100
Phenylsilatrane	2097-19-0	Solid	500	[2] 1
Phenylthiourea	103-85-5	Solid	100	100
Phorate	298-02-2	Liquid	2	10
Phosacetim	4104-14-7	Solid	100	[2] 1
Phosfolan	947-02-4	Solid	100	[2] 1
Phosgene	75-44-5	Gas	2	10
Phosmet	732-11-6	Solid	2	[2] 1
Phosphamidon	13171-21-6	Liquid	100	[2] 1

APPENDIX D.—LIST OF EXTREMELY HAZARDOUS SUBSTANCES, THRESHOLD PLANNING QUANTITIES, AND REPORTABLE QUANTITIES—Continued

[Alphabetical Order]

Chemical name	CAS No.	Ambient physical state	Threshold planning quantity (pounds)	Reportable quantity (pounds)
Phosphine	7803-51-2	Gas	500	100
Phosphonothioic acid, methyl-, O-ethyl O-(4-(methylthio)phenyl) ester	2703-13-1	Liquid	500	[1] 1
Phosphonothioic acid, methyl-, S-(2-(bis(1-methylethyl)amino)ethyl) O-ethyl ester	50782-69-9	Liquid	100	[1] 1
Phosphonothioic acid, methyl-,O-(4-nitrophenyl) O-phenyl ester	2665-30-7	Liquid	500	[1] 1
Phosphoric acid, dimethyl 4-(methylthio) phenyl ester	3254-63-5	Liquid	500	[1] 1
Phosphorous trichloride	7719-12-2	Liquid	1,000	1,000
Phosphorus	7723-14-0	Solid	[4] 500	1
Phosphorus oxychloride	10025-87-3	Liquid	500	1,000
Phosphorus pentachloride	10026-13-8	Solid	[4] 500	[1] 1
Phosphorus pentoxide	1314-56-3	Solid	[4] 2	[1] 1
Phylloquinone	[5] 84-80-0	Liquid	10,000	[1] 1
Physostigmine	57-47-6	Solid	100	[1] 1
Physostigmine, salicylate (1:1)	57-64-7	Solid	100	[1] 1
Picrotoxin	124-87-8	Solid	500	[1] 1
Piperidine	110-89-4	Liquid	1,000	[1] 1
Piprotal	5281-13-0	Solid	100	[1] 1
Pirimifos-ethyl	23505-41-1	Liquid	1,000	[1] 1
Platinous chloride	[5] 10025-65-7	Solid	10,000	[1] 1
Platinum tetrachloride	[5] 13454-96-1	Solid	10,000	[1] 1
Potassium arsenite	10124-50-2	Solid	500	[3] 1,000
Potassium cyanide	151-50-8	Solid	[4] 100	10
Potassium silver cyanide	506-61-6	Solid	[4] 500	1
Promecarb	2631-37-0	Solid	1,000	[1] 1
Propargyl bromide	106-96-7	Liquid	2	[1] 1
Propiolactone, beta-	57-57-8	Liquid	500	[1] 1
Propionitrile	107-12-0	Liquid	500	10
Propionitrile, 3-chloro-	542-76-7	Liquid	1,000	1,000
Propyl chloroformate	109-61-5	Liquid	500	[1] 1
Propylene glycol, allyl ether	[5] 1331-17-5	Liquid	10,000	[1] 1
Propylene oxide	75-56-9	Liquid	10,000	100
Propyleneimine	75-55-8	Liquid	10,000	[2] 1
Prothoate	2275-18-5	Solid	100	[1] 1
Pseudocumene	[5] 95-63-6	Liquid	10,000	[1] 1
Pyrene	129-00-0	Solid	[2] 1,000	5,000
Pyridine, 2-methyl-5-vinyl-	140-76-1	Liquid	500	[1] 1
Pyridine, 4-amino-	504-24-5	Solid	100	1,000
Pyridine, 4-nitro-, 1-oxide	1124-33-0	Solid	500	[1] 1
Pyriminil	53558-25-1	Solid	1,000	[1] 1
Rhodium trichloride	[5] 10049-07-7	Solid	10,000	[1] 1
Salcomine	14167-18-1	Solid	500	[1] 1
Sarin	107-44-8	Liquid	[3] 2	[1] 1
Selenium oxychloride	7791-23-3	Liquid	500	[1] 1
Selenous acid	7738-00-8	Solid	1,000	10
Semicarbazide hydrochloride	563-41-7	Solid	1,000	[1] 1
Silane, (4-aminobutyl)diethoxymethyl-	3037-72-7	Liquid	1,000	[1] 1
Sodium anthraquinone-1-sulfonate	[5] 128-56-3	Solid	10,000	[1] 1
Sodium arsenate	7631-89-2	Solid	1,000	[3] 1,000
Sodium arsenite	7784-46-5	Solid	500	[3] 1,000
Sodium azide (Na(N3))	26628-22-8	Solid	[4] [3] 100	1,000
Sodium cacodylate	124-65-2	Solid	100	[1] 1
Sodium cyanide (Na(CN))	143-33-9	Solid	[4] 100	10
Sodium fluoroacetate	62-74-8	Solid	2	10
Sodium pentacyhlorophenate	131-52-2	Solid	100	[1] 1
Sodium selenate	13410-01-0	Solid	100	[1] 1
Sodium selenite	10102-18-8	Solid	500	100
Sodium tellurite	10102-20-2	Solid	500	[1] 1
Strychnine	57-24-9	Solid	[3] 100	10
Strychnine, sulfate	60-41-3	Solid	100	[1] 1
Sulfotep	3689-24-5	Liquid	500	100
Solfoxide, 3-chloropropyl octyl	3569-57-1	Liquid	500	[1] 1
Sulfur dioxide	7446-09-5	Gas	500	[1] 1
Sulfur tetrafluoride	7783-60-0	Gas	100	[1] 1
Sulfur trioxide	7446-11-9	Solid	[4] 100	[1] 1
Sulfuric acid	7664-93-9	Liquid	1,000	1,000
Tabun	77-81-6	Liquid	[3] 2	[1] 1
Tellurium	13494-80-9	Solid	500	[1] 1
Tellurium hexafluoride	7783-80-4	Gas	2	[1] 1
Tepp	107-49-3	Liquid	100	10
Terbufos	13071-79-9	Liquid	500	[1] 1
Tetraethyllead	78-00-2	Liquid	[3] 100	[3] 10
Tetraethyltin	597-64-8	Liquid	[3] 100	[1] 1
Tetramethyl lead	75-74-1	Liquid	[3] 100	[1] 1
Tetranitromethane	509-14-8	Liquid	500	10
Thallic oxide	[5] 1314-32-5	Solid	10,000	100
Thallium sulfate	10031-59-1	Solid	100	100
Thallous carbonate	6533-73-9	Solid	[3] 100	100
Thallous chloride	7791-12-0	Solid	[3] 100	100
Thallous malonate	2757-18-8	Solid	[3] 100	[1] 1
Thallous sulfate	7446-18-6	Solid	100	100
Thiocarbazide	2231-57-4	Solid	1,000	[1] 1
Thiocyanic acid, 2-(benzothiazolylthio)methyl ester	[5] 21564-17-0	Liquid	10,000	[1] 1
Thiofanox	39196-18-4	Solid	100	100
Thiometon	[5] 640-15-3	Liquid	10,000	[1] 1
Thionazin	297-97-2	Liquid	500	100
Thiophenol	108-98-5	Liquid	500	100
Thiosemicarbazide	79-19-6	Solid	100	100
Thiourea, (2-chlorophenyl)-	5344-82-1	Solid	100	100
Thiourea, (2-methylphenyl)-	614-78-8	Solid	500	[1] 1
Titanium tetrachloride	7550-45-0	Liquid	100	[1] 1

APPENDIX D.—LIST OF EXTREMELY HAZARDOUS SUBSTANCES, THRESHOLD PLANNING QUANTITIES, AND REPORTABLE QUANTITIES—Continued

[Alphabetical Order]

Chemical name	CAS No.	Ambient physical state	Threshold planning quantity (pounds)	Reportable quantity (pounds)
Toluene 2,4-diisocyanate	548-84-9	Liquid	500	100
Toluene 2,6-diisocyanate	91-08-7	Liquid	100	100
Trans-1,4-dichlorobutene	110-57-6	Liquid	500	[1] 1
Triamiphos	1031-47-6	Solid	500	[1] 1
Triazofos	24017-47-8	Liquid	500	[1] 1
Trichloro(chloromethyl)silane	1558-25-4	Liquid	100	[1] 1
Trichloro(dichlorophenyl)silane	27137-85-5	Liquid	500	[1] 1
Trichloroacetyl chloride	76-02-8	Liquid	500	[1] 1
Trichloroethylsilane	115-21-9	Liquid	10,000	[1] 1
Trichloronate	327-98-0	Liquid	1,000	[1] 1
Trichlorophenylsilane	98-13-5	Liquid	2	[1] 1
Trichlorophon	[5] 52-68-6	Solid	10,000	100
Triethoxysilane	998-30-1	Liquid	500	[1] 1
Trimethylchlorosilane	75-77-4	Liquid	1,000	[1] 1
Trimethylolpropane phosphite	824-11-3	Solid	500	[1] 1
Trimethyltin chloride	1066-45-1	Solid	500	[1] 1
Triphenyltin chloride	639-58-7	Solid	500	[1] 1
Tris(2-chloroethyl)amine	555-77-1	Liquid	1,000	[1] 1
Valinomycin	2001-95-8	Solid	[3] 1,000	[1] 1
Vanadium pentoxide	1314-62-1	Solid	[4] 100	1,000
Vinyl acetate monomer	108-05-4	Liquid	1,000	5,000
Vinylnorbornene	[5] 3048-64-4	Liquid	10,000	[1] 1
Warfarin	81-81-2	Solid	500	100
Warfarin sodium	129-06-6	Solid	1,000	[1] 1
Xylylene dichloride	28347-13-9	Solid	100	[1] 1
Zinc phosphide	1314-84-7	Solid	[4] 500	100
Zinc, dichloro(4,4-dimethyl-5((((methylamino)carbonyl)oxy)imino)pentanenitrile)	58270-08-9	Solid	100	[1] 1

[1] Statutory reportable quantity for purposes of emergency notification under SARA section 304(a)(2).
[2] Indicates that the reportable quantity is subject to change when the assessment of potential carcinogenicity and/or chronic toxicity is completed.
[3] The calculated threshold quantity changed after technical review as described in the text.
[4] This material is a reactive solid. The threshold planning quantity will not become 10,000 pounds for the non-powder form.
[5] This chemical is proposed for deletion from list. Threshold planning quantity is in the interim assigned to the category of lowest concern, 10,000 pounds.
[6] The statutory one-pound reportable quantity for methyl isocyanate under CERCLA section 102(b) may be adjusted in a future rulemaking action.

APPENDIX E.—LIST OF EXTREMELY HAZARDOUS SUBSTANCES, THRESHOLD PLANNING QUANTITIES, AND REPORTABLE QUANTITIES

[CAS Order]

CAS No.	Chemical name	Ambient physical state	Threshold planning quantity (pounds)	Reportable quantity (pounds)
0	Organorhodium complex (PMN-82-147)	Solid	2	[1] 1
50-00-0	Formaldehyde	Gas	500	[2] 1,000
50-07-7	Mitomycin C	Solid	500	[2] 1
50-14-6	Ergocalciferol	Solid	[3] 1,000	[1] 1
51-21-8	Fluorouracil	Solid	500	[1] 1
51-75-2	Mechlorethamine	Liquid	[3] 2	[1] 1
51-83-2	Carbachol chloride	Solid	500	[1] 1
52-68-6 [5]	Trichlorophon	Solid	10,000	100
53-86-1 [5]	Indomethacin	Solid	10,000	[1] 1
54-11-5	Nicotine	Liquid	[3] 100	100
54-62-6	Aminopterin	Solid	500	[1] 1
55-91-4	Isofluorphate	Liquid	[3] 100	100
56-25-7	Cantharidin	Solid	100	[1] 1
56-38-2	Parathion	Liquid	[3] 100	[2] 1
56-72-4	Coumaphos	Solid	100	10
57-14-7	Dimethylhydrazine	Liquid	1,000	[2] 1
57-24-9	Strychnine	Solid	[3] 100	10
57-47-6	Physostigmine	Solid	100	[1] 1
57-57-8	Propiolactone, beta-	Liquid	500	[1] 1
57-64-7	Physostigmine, salicylate (1:1)	Solid	100	[1] 1
57-74-9	Chlordane	Liquid	1,000	[2] 1
58-36-6	Phenoxarsine, 10, 10'-oxydi-	Solid	500	[1] 1
58-89-9	Lindane	Solid	1,000	[2] 1
59-88-1	Phenylhydrazine hydrochloride	Solid	1,000	[1] 1
60-34-4	Methylhydrazine	Liquid	500	10
60-41-3	Strychnine, sulfate	Solid	100	[1] 1
60-51-5	Dimethoate	Solid	500	10
62-38-4	Phenylmercury acetate	Solid	500	100
62-53-3	Aniline	Liquid	1,000	5,000
62-73-7	Dichlorvos	Liquid	1,000	10
62-74-8	Sodium fluoroacetate	Solid	2	10
62-75-9	Nitrosodimethylamine	Liquid	500	[2] 1
64-00-6	Phenol, 3-(1-methylethyl)-, methylcarbamate	Solid	500	[1] 1
64-86-8	Colchicine	Solid	100	[1] 1
65-30-5	Nicotine sulfate	Solid	100	[1] 1
65-86-1 [5]	Orotic acid	Solid	10,000	[1] 1
66-81-9	Cycloheximide	Solid	100	[1] 1
67-66-3	Chloroform	Liquid	10,000	[2] 5,000
71-63-6	Digitoxin	Solid	[3] 100	[1] 1
72-20-8	Endrin	Solid	500	1
74-83-9	Methyl bromide	Gas	1,000	1,000
74-90-8	Hydrocyanic acid	Gas	100	10
74-93-1	Methyl mercaptan	Gas	500	100
75-15-0	Carbon disulfide	Liquid	10,000	100
75-18-3	Dimethyl sulfide	Liquid	100	[1] 1

APPENDIX E.—LIST OF EXTREMELY HAZARDOUS SUBSTANCES, THRESHOLD PLANNING QUANTITIES, AND REPORTABLE QUANTITIES—Continued

[CAS Order]

CAS No.	Chemical name	Ambient physical state	Threshold planning quantity (pounds)	Reportable quantity (pounds)
75-21-8	Ethylene oxide	Gas	1,000	[2] 1
75-44-5	Phosgene	Gas	2	10
75-55-8	Propyleneimine	Liquid	10,000	[2] 1
75-56-9	Propylene oxide	Liquid	10,000	100
75-74-1	Tetramethyl lead	Liquid	[3] 100	[1] 1
75-77-4	Trimethylchlorosilane	Liquid	1,000	[1] 1
75-78-5	Dimethyldichlorosilane	Liquid	10,000	[1] 1
75-79-6	Methyltrichlorosilane	Liquid	10,000	[1] 1
75-86-5	Acetone cyanohydrin	Liquid	1,000	10
76-01-7 [4]	Pentachloroethane	Liquid	10,000	[2] 1
76-02-8	Trichloroacetyl chloride	Liquid	500	[1] 1
77-47-4	Hexachlorocyclopentadiene	Liquid	500	[2] 1
77-78-1	Dimethyl sulfate	Liquid	500	[2] 1
77-81-6	Taburn	Liquid	[3] 2	[1] 1
78-00-2	Tetraethyllead	Liquid	[3] 100	[2] 10
78-34-2	Dioxathion	Liquid	500	[1] 1
78-53-5	Amiton	Liquid	500	[1] 1
78-71-7	Oxetane, 3,3-bis(chloromethyl)-	Liquid	500	[1] 1
78-82-0	Isobutyronitrile	Liquid	10,000	[1] 1
78-94-4	Methyl vinyl ketone	Liquid	2	[1] 1
78-97-7	Lactonitrile	Liquid	1,000	[1] 1
79-06-1	Acrylamide	Solid	1,000	5,000
79-11-8	Chloroacetic acid	Solid	100	[1] 1
79-19-6	Thiosemicarbazide	Solid	100	100
79-21-0	Peracetic acid	Liquid	500	[1] 1
79-22-1	Methyl Chloroformate	Liquid	10,000	1,000
80-63-7	Methyl 2-chloroacrylate	Liquid	500	[1] 1
81-81-2	Warfarin	Solid	500	100
82-66-6	Diphacinone	Solid	2	[1] 1
84-74-2 [4]	Dibutyl phthalate	Liquid	10,000	10
84-80-0 [4]	Phylloquinone	Liquid	10,000	[1] 1
86-50-0	Azinphos-methyl	Solid	2	1
86-88-4	Antu	Solid	500	100
87-86-5 [4]	Pentachlorophenol	Solid	10,000	[2] 10
88-05-1	Aniline, 2,4,6-trimethyl-	Liquid	500	[1] 1
88-85-7	Dinoseb	Solid	100	1,000
91-08-7	Toluene 2,6-diisocyanate	Liquid	100	100
93-05-0 [4]	Diethyl-p-phenylenediamine	Liquid	10,000	[1] 1
95-48-7	Cresol, o-	Solid	1,000	[2] 1,000
95-63-6 [4]	Pseudocumene	Liquid	10,000	[1] 1
97-18-7	Phenol, 2,2'-thiobis(4,6-dichloro-	Solid	100	[1] 1
98-05-5	Benzenearsonic acid	Solid	2	[1] 1
98-07-7	Benzotrichloride	Liquid	100	[2] 1
98-09-9 [4]	Benzenesulfonyl chloride	Liquid	10,000	100
98-13-5	Trichlorophenylsilane	Liquid	2	[1] 1
98-16-8	Benzenamine, 3-(trifluoromethyl)-	Liquid	500	[1] 1
98-87-3	Benzal chloride	Liquid	500	5,000
98-95-3	Nitrobenzene	Liquid	10,000	1,000
99-98-9	Dimethyl-p-phenylenediamine	Solid	2	[1] 1
100-14-1	Benzene, 1-(chloromethyl)-4-nitro-	Solid	500	[1] 1
100-44-7	Benzyl Chloride	Liquid	500	[2] 100
102-36-3	Isocyanic acid, 3,4-dichlorophenyl ester	Solid	500	[1] 1
103-85-5	Phenylthiourea	Solid	100	100
106-89-8	Epichlorohydrin	Liquid	1,000	[2] 1,000
106-96-7	Propargyl bromide	Liquid	2	[1] 1
106-99-0 [4]	Butadiene	Gas	10,000	[1] 1
107-02-8	Acrolein	Liquid	500	1
107-07-3	Chloroethanol	Liquid	500	[1] 1
107-11-9	Allylamine	Liquid	500	[1] 1
107-12-0	Propionitrile	Liquid	500	10
107-13-1	Acrylonitrile	Liquid	10,000	[2] 100
107-15-3	Ethylenediamine	Liquid	10,000	5,000
107-16-4	Formaldehyde cyanohydrin	Liquid	10,000	[1] 1
107-18-6	Allyl alcohol	Liquid	1,000	100
107-20-0 [4]	Chloroacetaldehyde	Liquid	10,000	1,000
107-30-2	Chloromethyl methyl ether	Liquid	[2] 100	[2] 1
107-44-8	Sarin	Liquid	[3] 2	[1] 1
107-49-3	Tepp	Liquid	[3] 100	10
108-05-4	Vinyl acetate monomer	Liquid	1,000	5,000
108-23-6	Isopropyl chloroformate	Liquid	1,000	[1] 1
108-67-8 [4]	Mesitylene	Liquid	10,000	[1] 1
108-91-8	Cyclohexylamine	Liquid	10,000	[1] 1
108-95-2	Phenol	Solid	500	1,000
108-98-5	Thiophenol	Liquid	500	100
109-19-3 [4]	Butyl isovalerate	Liquid	10,000	[1] 1
109-61-5	Propyl chloroformate	Liquid	500	[1] 1
109-77-3	Malononitrile	Solid	500	1,000
110-00-9	Furan	Liquid	500	100
110-57-6	Trans-1,4-dichlorobutene	Liquid	500	[1] 1
110-89-4	Piperidine	Liquid	1,000	[1] 1
111-34-2 [4]	Butyl vinyl ether	Liquid	10,000	[1] 1
111-44-4	Dichloroethyl ether	Liquid	10,000	[2] 1
111-69-3	Adiponitrile	Liquid	1,000	[1] 1
115-21-9	Trichloroethylsilane	Liquid	10,000	[1] 1
115-26-4	Dimefox	Liquid	500	[1] 1
115-29-7	Endosulfan	Solid	2	1
115-90-2	Fensulfothion	Liquid	1,000	[1] 1
116-06-3	Aldicarb	Solid	[3] 100	1

APPENDIX E.—LIST OF EXTREMELY HAZARDOUS SUBSTANCES, THRESHOLD PLANNING QUANTITIES, AND REPORTABLE QUANTITIES—Continued

[CAS Order]

CAS No.	Chemical name	Ambient physical state	Threshold planning quantity (pounds)	Reportable quantity (pounds)
117-52-2 [4]	Coumafuryl	Solid	10,000	[1] 1
117-84-0 [4]	Dioctyl phthalate	Liquid	10,000	5,000
119-38-0	Isopropylmethylpyrazolyl dimethylcarbamate	Liquid	500	[1] 1
122-14-5	Fenitrothion	Liquid	500	[1] 1
123-31-9	Hydroquinone	Solid	500	[1] 1
123-73-9	Crotonaldehyde, (E)-	Liquid	1,000	100
124-65-2	Sodium cacodylate	Solid	100	[1] 1
124-87-8	Picrotoxin	Solid	500	[1] 1
126-98-7	Methacrylonitrile	Liquid	10,000	1,000
128-56-3 [4]	Sodium anthraquinone-1-sulfonate	Solid	10,000	[1] 1
129-00-0	Pyrene	Solid	[3] 1,000	5,000
129-06-6	Warfarin sodium	Solid	1,000	[1] 1
131-11-3 [4]	Dimethyl phthalate	Liquid	10,000	5,000
131-52-2	Sodium pentachlorophenate	Solid	100	[1] 1
140-29-4	Benzyl cyanide	Liquid	1,000	[1] 1
140-76-1	Pyridine, 2-methyl-5-vinyl-	Liquid	500	[1] 1
141-66-2	Dicrotophos	Liquid	100	[1] 1
143-33-9	Sodium cyanide (Na(CN))	Solid	[5] 100	10
144-49-0	Fluoroacetic acid	Solid	2	[1] 1
149-74-6	Dichloromethylphenylsilane	Liquid	1,000	[1] 1
151-38-2	Methoxyethylmercuric acetate	Solid	500	[1] 1
151-50-8	Potassium cyanide	Solid	[5] 100	10
151-56-4	Ethyleneimine	Liquid	500	[2] 1
152-16-9	Diphosphoramide, octamethyl-	Liquid	100	100
287-92-3 [4]	Cyclopentane	Liquid	10,000	[1] 1
297-78-9	Isobenzan	Solid	100	[1] 1
297-97-2	Thionazin	Liquid	500	100
298-00-0	Parathion-methyl	Solid	[3] 100	100
298-02-2	Phorate	Liquid	2	10
298-04-4	Disulfoton	Liquid	500	1
300-62-9	Amphetamine	Liquid	1,000	[1] 1
302-01-2	Hydrazine	Liquid	1,000	[2] 1
309-00-2	Aldrin	Solid	500	[3] 1
315-18-4	Mexacarbate	Solid	500	1,000
316-42-7	Emetine, dihydrochloride	Solid	1,000	[1] 1
327-98-0	Trichloronate	Liquid	1,000	[1] 1
353-42-4	Boron trifluoride compound with methyl ether (1:1)	Liquid	1,000	[1] 1
359-06-8	Fluoroacetyl chloride	Liquid	[3] 2	[1] 1
371-62-0	Ethylene fluorohydrin	Liquid	[3] 2	[1] 1
379-79-3	Ergotamine tartrate	Solid	500	[1] 1
465-73-6	Isodrin	Solid	100	1
470-90-6	Chlorfenvinfos	Liquid	500	[1] 1
502-39-6	Methylmercuric dicyanamide	Solid	500	[1] 1
504-24-5	Pyridine, 4-amino-	Solid	100	1,000
505-60-2	Mustard gas	Liquid	1,000	[1] 1
506-61-6	Potassium silver cyanide	Solid	[5] 500	1
506-68-3	Cyanogen bromide	Solid	500	1,000
506-78-5	Cyanogen iodide	Solid	1,000	[1] 1
509-14-8	Tetranitromethane	Liquid	500	10
514-73-8	Dithiazanine iodide	Solid	500	[1] 1
534-07-6	Bis (chloromethyl) ketone	Solid	2	[1] 1
534-52-1	Dinitrocresol	Solid	2	10
535-89-7	Crimidine	Solid	100	[1] 1
538-07-8	Ethylbis (2-chloroethyl) amine	Liquid	10,000	[1] 1
541-25-3	Lewisite	Liquid	[3] 2	[1] 1
541-53-7	Dithiobiuret	Solid	100	100
542-76-7	Propionitrile, 3-chloro-	Liquid	1,000	1,000
542-88-1	Chloromethyl ether	Liquid	1,000	[3] 1
542-90-5	Ethyl thiocyanate	Liquid	10,000	[1] 1
555-77-1	Tris (2-chloroethyl) amine	Liquid	1,000	[1] 1
556-61-6	Methyl isothiocyanate	Solid	[5] 500	[1] 1
556-64-9	Methyl thiocyanate	Liquid	10,000	[1] 1
558-25-8	Methanesulfonyl fluoride	Liquid	1,000	[1] 1
563-12-2	Ethion	Liquid	1,000	10
563-41-7	Semicarbazide hydrochloride	Solid	1,000	[1] 1
584-84-9	Toluene 2, 4-diisocyanate	Liquid	500	100
594-42-3	Perchloromethylmercaptan	Liquid	500	100
597-64-8	Tetraethyltin	Liquid	[3] 100	[1] 1
614-78-8	Thiourea, (2-methylphenyl)-	Solid	500	[1] 1
624-83-9	Methyl isocyanate	Liquid	500	[6] 1
624-92-0	Methyl disulfide	Liquid	100	[1] 1
625-55-8	Isopropyl formate	Liquid	500	[1] 1
627-11-2	Chloroethyl chloroformate	Liquid	1,000	[1] 1
630-60-4	Ouabain	Solid	[3] 100	[1] 1
633-03-4 [4]	C.I. basic green 1	Solid	10,000	[1] 1
639-58-7	Triphenyltin chloride	Solid	500	[1] 1
640-15-3 [4]	Thiometon	Liquid	10,000	[1] 1
640-19-7	Fluoroacetamide	Solid	[3] 2	100
644-64-4	Dimetilan	Solid	500	[1] 1
646-06-0 [4]	Dioxolane	Liquid	10,000	[1] 1
675-14-9	Cyanuric fluoride	Liquid	100	[1] 1
676-97-1	Methyl phosphonic dichloride	Solid	[5] 100	[1] 1
696-28-6	Phenyl dichloroarsine	Liquid	1,000	[2] 1
732-11-6	Phosmet	Solid	2	[1] 1
760-93-0	Methacrylic anhydride	Liquid	500	[1] 1
786-19-6	Carbophenothion	Liquid	500	[1] 1
814-49-3	Diethyl chlorophosphate	Liquid	1,000	[1] 1
814-68-6	Acrylyl chloride	Liquid	500	[1] 1

APPENDIX E.—LIST OF EXTREMELY HAZARDOUS SUBSTANCES, THRESHOLD PLANNING QUANTITIES, AND REPORTABLE QUANTITIES—Continued

[CAS Order]

CAS No.	Chemical name	Ambient physical state	Threshold planning quantity (pounds)	Reportable quantity (pounds)
624-11-3	Trimethylolpropane phosphite	Solid	500	[1] 1
919-86-8	Demeton-S-methyl	Liquid	500	[1] 1
920-46-7	Methacryloyl chloride	Liquid	100	[1] 1
944-22-9	Fonofos	Liquid	500	[1] 1
947-02-4	Phospfolan	Solid	100	[1] 1
950-10-7	Mephosfolan	Liquid	500	[1] 1
950-37-8	Methidathion	Solid	500	[1] 1
991-42-4	Norbormide	Solid	100	[1] 1
998-30-1	Triethoxysilane	Liquid	500	[1] 1
999-81-5	Chlormequat chloride	Solid	1,000	[1] 1
1031-47-6	Triamiphos	Solid	500	[1] 1
1066-45-1	Trimethyltin chloride	Solid	500	[1] 1
1122-60-7	Nitrocyclohexane	Liquid	500	[1] 1
1124-33-0	Pyridine, 4-nitro-, 1-oxide	Solid	500	[1] 1
1129-41-5	Metolcarb	Solid	100	[1] 1
1303-28-2	Arsenic pentoxide	Solid	100	[2] 5,000
1306-19-0	Cadmium oxide	Solid	100	[1] 1
1314-32-5 [4]	Thallic oxide	Solid	10,000	100
1314-56-3	Phosphorus pentoxide	Solid	[5] 2	[1] 1
1314-62-1	Vanadium pentoxide	Solid	[5] 100	1,000
1314-84-7	Zinc phosphide	Solid	[5] 500	100
1327-53-3	Arsenous oxide	Solid	500	[2] 5000
1331-17-5 [4]	Propylene glycol, allyl ether	Liquid	10,000	[1] 1
1335-87-1 [4]	Hexachloronaphthalene	Solid	10,000	[1] 1
1397-94-0	Antimycin A	Solid	[3] 1,000	[1] 1
1405-87-4 [4]	Bacitracin	Solid	1,000	[1] 1
1420-07-1	Dinoterb	Solid	500	[1] 1
1464-53-5	Diepoxybutane	Liquid	500	[2] 1
1558-25-4	Trichloro(chloromethyl)silane	Liquid	100	[2] 1
1563-66-2	Carbofuran	Solid	2	10
1600-27-7	Mercuric acetate	Solid	500	[1] 1
1622-32-8	Ethanesulfonyl chloride, 2-chloro-	Liquid	500	[1] 1
1642-54-2	Diethylcarbamazine citrate	Solid	100	[1] 1
1752-30-3	Acetone thiosemicarbazide	Solid	1,000	[1] 1
1910-42-5	Paraquat	Solid	2	[1] 1
1982-47-4	Chloroxuron	Solid	500	[1] 1
2001-95-8	Valinomycin	Solid	[3] 1,000	[1] 1
2032-65-7	Methiocarb	Solid	500	10
2074-50-2	Paraquat methosulfate	Solid	2	[1] 1
2097-19-0	Phenylsilatrane	Solid	500	[1] 1
2104-64-5	EPN	Solid	100	[1] 1
2223-93-0	Cadmium stearate	Solid	1,000	[1] 1
2231-57-4	Thiocarbazide	Solid	1,000	[1] 1
2235-25-8 [4]	Ethylmercuric phosphate	Solid	10,000	[1] 1
2238-07-5	Diglycidyl ether	Liquid	1,000	[1] 1
2244-16-8 [4]	Carvone	Liquid	10,000	[1] 1
2275-18-5	Porthoate	Solid	100	[1] 1
2497-07-6	Oxydisulfoton	Liquid	1,000	[1] 1
2524-03-0	Dimethyl phosphorochloridothioate	Liquid	500	[1] 1
2540-82-1	Formothion	Liquid	100	[1] 1
2570-26-5	Pentadecylamine	Solid	100	[1] 1
2631-37-0	Promecarb	Solid	1,000	[1] 1
2636-26-2	Cyanophos	Liquid	1,000	[1] 1
2642-71-9	Azinphos-ethyl	Solid	100	[1] 1
2665-30-7	Phosphonothioic acid, methyl-,0-(4-nitrophenyl) 0-phenyl ester	Liquid	500	[1] 1
2703-13-1	Phosphonothioic acid, methyl-,0-ethyl 0-(4-(methylthio)phenyl) ester	Liquid	500	[1] 1
2757-18-8	Thallous malonate	Solid	[3] 100	[1] 1
2763-96-4	Muscimol	Solid	500	1 000
2778-04-3	Endothion	Solid	500	[1] 1
3037-72-7	Silane, (4-aminobutyl)diethoxymethyl-	Liquid	1,000	[1] 1
3048-64-4 [4]	Vinylnorbornene	Liquid	10,000	[1] 1
3254-63-5	Phosphoric acid, dimethyl 4-(methylthio)phenyl ester	Liquid	500	[1] 1
3569-57-1	Sulfoxide, 3-chloropropyl octyl	Liquid	500	[1] 1
3689-24-5	Sulfotep	Liquid	500	100
3691-35-8	Chlorophacinone	Solid	100	[1] 1
3734-97-2	Amiton oxalate	Solid	100	[1] 1
3735-23-7	Methyl phenkapton	Liquid	500	[1] 1
3878-19-1	Fuberidazole	Solid	100	[1] 1
4044-65-9	Bitoscanate	Solid	500	[1] 1
4098-71-9	Isophorone diisocyanate	Solid	[5] 100	[1] 1
4104-14-7	Phosacetim	Solid	100	[1] 1
4170-30-3	Crotonaldehyde	Liquid	1,000	100
4301-50-2	Fluenetil	Solid	100	[1] 1
4418-66-0	Phenol, 2,2'-thiobis[4-chloro-6-methyl-	Solid	100	[1] 1
4835-11-4	Hexamethylenediamine, N,N'-dibutyl-	Liquid	500	[1] 1
5281-13-0	Piprotal	Solid	100	[1] 1
5344-82-1	Thiourea, (2-chlorophenyl)-	Solid	100	100
5836-29-3	Coumatetralyl	Solid	500	[1] 1
6533-73-9	Thallous carbonate	Solid	[3] 100	100
6923-22-4	Monocrotophos	Solid	2	[1] 1
7440-02-0 [4]	Nickel	Solid	10,000	[2] 1
7440-48-4 [4]	Colbalt	Solid	10,000	[1] 1
7446-09-5	Sulfur dioxide	Gas	500	[1] 1
7446-11-9	Sulfur trioxide	Solid	[5] 100	[1] 1
7446-18-6	Thallous sulfate	Solid	100	100
7487-94-7	Mercuric chloride	Solid	500	[1] 1
7550-45-0	Titanium tetrachloride	Liquid	100	[1] 1
7580-67-8	Lithium hydride	Solid	[5] 100	[1] 1

APPENDIX E.—LIST OF EXTREMELY HAZARDOUS SUBSTANCES, THRESHOLD PLANNING QUANTITIES, AND REPORTABLE QUANTITIES—Continued

[CAS Order]

CAS No.	Chemical name	Ambient physical state	Threshold planning quantity (pounds)	Reportable quantity (pounds)
7631-89-2	Sodium arsenate	Solid	1,000	1,000 (d)
7637-07-2	Boron trifluoride	Gas	500	[1] 1
7647-01-0	Hydrogen chloride	Gas	500	5,000
7664-39-3	Hydrogen fluoride	Gas	100	100
7664-41-7	Ammonia	Gas	500	100
7664-93-9	Sulfuric acid	Liquid	1,000	1,000
7697-37-2	Nitric acid	Liquid	1,000	1,000
7719-12-2	Phosphorous trichloride	Liquid	1,000	1,000
7722-84-1	Hydrogen peroxide (concentration greater than 25%)	Liquid	1,000	[1] 1
7723-14-0	Phoshorus	Solid	[5] 500	[1] 1
7726-95-6	Bromine	Liquid	500	[1] 1
7778-44-1	Calcium arsenate	Solid	500	[2] 1,000
7782-41-4	Fluorine	Gas	100	10
7782-50-5	Chlorine	Gas	100	10
7783-00-8	Selenous acid	Solid	1,000	10
7783-06-4	Hydrogen sulfide	Gas	500	100
7783-07-5	Hydrogen selenide	Gas	2	[1] 1
7783-60-0	Sulfur tetrafluoride	Gas	100	[1] 1
7783-70-2	Antimony pentafluoride	Liquid	500	[1] 1
7783-80-4	Tellurium hexafluoride	Gas	2	[1] 1
7784-34-1	Arsenous trichloride	Liquid	500	[2] 5,000
7784-42-1	Arsine	Gas	100	[1] 1
7784-46-5	Sodium arsenite	Solid	500	[2] 1,000
7786-34-7	Mevinphos	Liquid	500	10
7791-12-0	Thallous chloride	Solid	[3] 100	100
7791-23-3	Selenium Oxychloride	Liquid	500	[1] 1
7803-51-2	Phosphine	Gas	500	100
8001-35-2	Camphechlor	Solid	500	[2] 1
8023-53-8 [4]	Dichlorobenzalkonium chloride	Solid	10,000	[1] 1
8065-48-3	Demeton	Liquid	500	[1] 1
10025-65-7 [4]	Platinous chloride	Solid	10,000	[1] 1
10025-73-7	Chromic chloride	Solid	2	[1] 1
10025-87-3	Phosphorus oxychloride	Liquid	500	1,000
10025-97-5 [4]	Iridium tetrachloride	Solid	10,000	[1] 1
10026-13-8	Phosphorus pentachloride	Solid	[5] 500	[1] 1
10028-15-6	Ozone	Gas	100	[1] 1
10031-59-1	Thallium sulfate	Solid	100	100
10049-07-7 [4]	Rhodium trichloride	Solid	10,000	[1] 1
10102-18-8	Sodium selenite	Solid	500	100
10102-20-2	Sodium tellurite	Solid	500	[1] 1
10102-43-9	Nitric oxide	Gas	[3] 100	10
10102-44-0	Nitrogen dioxide	Gas	100	10
10124-50-2	Potassium arsenite	Solid	500	[2] 1,000
10140-87-1	Ethanol, 1,2-dichloro-, acetate	Liquid	1,000	[1] 1
10210-68-1	Cobalt carbonyl	Solid	100	[1] 1
10265-92-6	Methamidophos	Solid	100	[1] 1
10294-34-5	Boron trichloride	Liquid	500	[1] 1
10311-84-9	Dialifos	Solid	100	[1] 1
10476-95-6	Methacrolein diacetate	Liquid	1,000	[1] 1
12002-03-8	Paris green	Solid	500	[2] 100
12108-13-3	Manganese, tricarbonyl methylcyclopentadienyl	Liquid	10,000	[1] 1
13071-79-9	Terbufos	Liquid	500	[1] 1
13171-21-6	Phosphamidon	Liquid	100	[1] 1
13194-48-4	Ethoprophos	Liquid	1,000	[1] 1
13410-01-0	Sodium selenate	Solid	100	[1] 1
13450-90-3	Gallium trichloride	Solid	500	[1] 1
13454-96-1 [4]	Platinum tetrachloride	Solid	10,000	[1] 1
13463-39-3	Nickel carbonyl	Liquid	[3] Any	[2] 1
13463-40-6	Iron, pentacarbonyl-	Liquid	100	[1] 1
13494-80-9	Tellurium	Solid	500	[1] 1
14167-18-1	Salcomine	Solid	500	[1] 1
15271-41-7	Bicyclo[2.2.1]heptane-2-carbonitrile, 5-chloro-6-((((methylamino)carbonyl)oxy)m	Solid	500	[1] 1
16752-77-5	Methomyl	Solid	1,000	100
16919-58-7 [4]	Ammonium chloroplatinate	Solid	10,000	[1] 1
17702-41-9	Decaborane(14)	Solid	500	[1] 1
17702-57-7	Formparanate	Solid	100	[1] 1
19287-45-7	Diborane	Gas	100	[1] 1
19624-22-7	Pentaborane	Liquid	500	[1] 1
20816-12-0 [4]	Osmium tetroxide	Solid	10,000	1,000
20830-75-5	Digoxin	Solid	100	[1] 1
20859-73-8	Aluminum phosphide	Solid	[5] 500	100
21548-32-3	Fosthietan	Liquid	500	[1] 1
21564-17-0 [4]	Thiocyanic acid, 2-(benzothiazolylthio)methyl ester	Liquid	10,000	[1] 1
21609-90-5	Leptophos	Solid	500	[1] 1
21908-53-2	Mercuric oxide	Solid	500	[1] 1
21923-23-9	Chlorthiophos	Liquid	1,000	[1] 1
22224-92-6	Fenamiphos	Solid	2	[1] 1
23135-22-0	Oxamyl	Solid	100	[1] 1
23422-53-9	Formetanate	Solid	100	[1] 1
23505-41-1	Pirimifos-ethyl	Liquid	1,000	[1] 1
24017-47-8	Triazofos	Liquid	500	[1] 1
24934-91-6	Chlormephos	Liquid	500	[1] 1
26419-73-8	Carbamic acid, methyl-, O-(((2,4-dimethyl-1,3-ditholan-2-yl)methylene)amino)-	Solid	100	[1] 1
26628-22-8	Sodium azide ($Na(N_3)$)	Solid	[3] [5] 100	1,000
27137-85-5	Trichloro(dichlorophenyl)silane	Liquid	500	[1] 1
28347-13-9	Xylylene dichloride	Solid	100	[1] 1
28772-56-7	Bromadiolone	Solid	100	[1] 1
30674-80-7	Methacryloyloxyethyl isocyanate	Liquid	500	[1] 1

APPENDIX E.—LIST OF EXTREMELY HAZARDOUS SUBSTANCES, THRESHOLD PLANNING QUANTITIES, AND REPORTABLE QUANTITIES—Continued

[CAS Order]

CAS No.	Chemical name	Ambient physical state	Threshold planning quantity (pounds)	Reportable quantity (pounds)
39196-18-4	Thiofanox	Solid	100	100
50782-69-9	Phosphonothioic acid, methyl-, S-(2-(bis(1-methylethyl)amino)ethyl) O-ethyl ester	Liquid	100	[1] 1
53558-25-1	Pyriminil	Solid	1,000	[1] 1
58270-08-9	Zinc, dichloro(4,4-dimethyl-5((((methylamino) carbonyl)oxy)imino)pentanenitrile)	Solid	100	[1] 1
62207-76-5	Cobalt, ((2,2'-(1,2-ethanediylbis (nitrilomethylidyne))bis(6-fluorophenolato))(2)	Solid	100	[1] 1

[1] Statutory reportable quantity for purposes of emergency notification under SARA section 304(a)(2).
[2] Indicates that the reportable quantity is subject to change when the assessment of potential carcinogenicity and/or chronic toxicity is completed.
[3] The calculated threshold quantity changed after technical review as described in the text.
[4] This chemical is proposed for deletion from list. Threshold planning quantity is in the interim assigned to the category of lowest concern, 10,000 pounds.
[5] This material is a reactive solid. The threshold planning quantity will not become 10,000 pounds for the non-powder form.
[6] The statutory one-pound reportable quantity for methyl isocyanate under CERCLA section 102(b) may be adjusted in a future rulemaking action.

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ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[SW H -FRL-3113-7]

Emergency Planning and Community Right To Know Programs

AGENCY: U.S. Environmental Protection Agency (EPA).

ACTION: Proposed Rule: Cross-Reference.

SUMMARY: This proposal is a companion to EPA's Interim Final Rule published elsewhere in today's **Federal Register** establishing the list of extremely hazardous substances, threshold planning quantities and notification requirements. Section 302 of the Superfund Amendments and Reauthorization Act of 1986 (SARA), signed into law on October 17, 1986, requires the Administator of EPA to publish a list of extremely hazardous substances within 30 days. The Administrator is also required to simultaneously publish an interim final regulation establishing a threshold planning quantity for each substance on the list and initiate a rulemaking to revise these regulations. The list and planning quantities trigger emergency planning by States and local communities under SARA. The purpose of this proposal is to initiate a rulemaking to revise the Interim Final Rule. The full text of that rule, including the list of substances, the threshold planning quantities and reporting regulations, is published elsewhere in today's **Federal Register.**

DATE: Written comments should be submitted on or before January 2, 1987.

ADDRESS: *Comments:* Written comments should be submitted to: Preparedness Staff, Superfund Docket Clerk, Attention: Docket Number 300PQ, Room Lower Garage, U.S. Environmental Protection Agency, Mail Stop WH 548D, 401 M Street SW., Washington, DC 20460.

Copies of materials relevant to this rulemaking are contained in Room Lower Garage, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460. The docket is available for inspection, by appointment only, between the hours of 9:00 a.m. through 4 p.m. Monday through Friday, excluding federal holidays. The docket telephone number is (202) 382–3064. As provided in 40 CFR Part 2, a reasonable fee may be charged for copying services.

FOR FURTHER INFORMATION CONTACT: Richard A. Horner, Chemical Engineer, Preparedness Staff, Office of Solid Waste and Emergency Response, WH–548, U.S. Environmental Protection Agency, 401 M Street SW., Washington, DC 20460, or the Chemical Emergency Preparedness Hotline at 1–800/535–0202, in Washington DC at 1–202/479–2449.

SUPPLEMENTARY INFORMATION:

I. Introduction

Section 302 of SARA requires the Administrator of EPA to publish a list of extremely hazardous substances and threshold planning quantities for such substances. Any facility where an extremely hazardous substance is present in an amount in excess of the threshold planning quantity is required to notify the State commission by May 17, 1987.

The list of extremely hazardous substances is defined in section 302 as "the list of substances published in November, 1985 by the Administrator in Appendix A of the Chemical Emergency Preparedness Program Interim Guidance." This list was established by EPA to identify chemical substances which could cause serious irreversible health effects from accidental releases.

Section 302 further requires EPA to establish threshold planning quantities for each of the 402 extremely hazardous substances through an interim final regulation. At the same time, EPA must initiate a rulemaking effort to finalize these threshold planning quantities. If EPA does not publish an interim final rule establishing the threshold planning quantities by thirty days after enactment of SARA, then the threshold planning quantity becomes two pounds for each extremely hazardous substance.

Under section 302(a)(4) the Administrator may make revisions to the list and threshold planning quantities. Any revisions of the list must take into account specified factors.

II. Cross-Reference of Interim Final Rule

The Interim Final Rule establishing the list of extremely hazardous substances and corresponding threshold planning quantities is published elsewhere in today's **Federal Register.** Because section 302 also requires EPA to initiate an Agency rulemaking to revise this rule EPA is also soliciting comment on all aspects of that final rule. Thus, the Interim Final Rule is immediately effective but the text also serves as the text for this proposal. Readers should refer to the Interim Final Rule published elsewhere in today's **Federal Register.**

III. Additional Proposals

The Interim Final Rule which is the companion rule to this proposal, included only those requirements which are immediately effective under Title III of SARA. As indicated above, EPA in this proposal solicits comments on all aspects of that rule for revision in a revised final rule. This proposed rule, however, also includes a specific proposal for revisions to the list of extremely hazardous substances which does not appear in the Interim Final Rule. Readers should refer to the text of the Interim Final Rule published elsewhere in today's **Federal Register** for a discussion of the basis for identifying the initial list of extremely hazardous substances.

Section 302 authorizes EPA to revise the list of extremely hazardous substances, both to add and delete substances. Revisions to the list must take into account the toxicity, reactivity, volatility, dispersability, combustibility, or flammability of a substance. The Agency believes that changes to the list should be based on three conditions: corrections to the toxicity data base, addition of new data, or modifications to the criteria. The RTECS database is periodically reviewed and updated as new and/or corrected data become available.

Since the list was originally made public as part of the CEPP Interim Guidance (November 1985), the Agency discovered that several chemicals no longer meet the original listing criteria which corresponds to the statutory criterion of toxicity. Table 1 lists the chemicals that are today proposed for deletion. Additionally, several other chemicals were newly identified as tentatively meeting the criteria and are proposed for addition to the list. Table 2 lists the chemicals that are proposed today for addition to the list of extremely hazardous substances, along with corresponding proposed threshold planning quantities. Further discussion of the criteria for addition or deletion and the reasons for the decisions made with respect to individual substances can be found in the Interim Final Rule, published elsewhere in today's **Federal Register** and in the technical support documents listed in Attachment I of that rule.

The Agency recognizes that the criteria used to establish the extremely hazardous substance list address only lethality, and do not account for all effects that may be associated with acute exposure to chemicals. Criteria are being considered for other health effects after acute exposures to toxic chemicals. In addition, section 302 requires the Agency to consider long-term health effects resulting from short-term exposures to these chemicals. The Agency does not presently have

sufficient data on such effects and request data from commenters on chronic effects from short-term exposures and comments on how these effects should be incorporated into criteria for revisions to the list. Finally, the Agency has developed the list and proposed revisions to it, largely based upon the toxicity of the chemicals. The Agency requests comment on the extent and the manner in which the criteria for adoption or deletion should be revised to include the other statutory criteria that may be considered for revisions to the list. The Agency also solicits any other comments on the criteria for additions to or deletions from the list.

IV. Regulatory Analyses

A. Regulatory Impact Analysis

Rulemaking protocol under Executive Order 12291 requires that regulations be classified as "major" or "non-major" for purposes of review by the Office of Management and Budget. According to E.O. 12291, major rules are regulations that are likely to result in: (1) An annual adverse (cost) effect on the economy of $100 million, (2) a major increase in costs or prices for consumers, individual industries, federal, state, or local government, or geographical regions, or (3) significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States based enterprises in domestic or export markets.

Because SARA requires the Administrator to publish this proposed rule within 30 days, the Agency cannot conduct an economic or regulatory impact analysis prior to the publication of this interim final rule. However, for informational purposes, the Agency will develop economic analyses in connection with the revised final rule.

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act of 1980 requires that an analysis be performed for all rules that are likely to have a "significant impact on a substantial number of small entities." Based on the limited time available, the Agency did not conduct a formal flexibility analysis. However, the Agency has considered the impact on small entities and it does not believe it will have a significant impact on a substantial number.

C. Paperwork Reduction Act

The information collection requirements in this proposed rule have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 *et seq.* Submit comments on these requirements to the Office of Information and Regulatory Affairs; OMB; 726 Jackson Place, NW.; Washington, DC 20503 marked "Attention: Desk Officer for EPA." The final rule will respond to any OMB or public comments on the information collection requirements.

V. Supporting Information

A. List of Subjects

Chemicals, hazardous substances, extremely hazardous substances, intergovernmental relations, community right-to-know, natural resources, Superfund, Superfund Amendments and Reauthorization Act, air pollution control, chemical accident prevention, chemical emergency preparedness, threshold planning quantity, community emergency response plan, contingency planning, reporting and recordkeeping requirements.

Dated: November 12, 1986.

Lee M. Thomas,

Administrator.

PART 300—[AMENDED]

For the reasons set out in the Preamble, Appendix D and Appendix E of Part 300 in Title 40 of the Code of Federal Regulations, which are set forth in an Interim Final Rule published elsewhere in today's **Federal Register**, are proposed to be amended as follows:

TABLE 1.—SUBSTANCES PROPOSED FOR DELETION FROM THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES

CAS No.	Chemical name
52-68-6	Trichlorphon.
53-86-1	Indomethacin.
65-86-1	Orotic Acid.

TABLE 1.—SUBSTANCES PROPOSED FOR DELETION FROM THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES—Continued

CAS No.	Chemical name
76-01-7	Pentachloroethane.
84-74-2	Dibutyl phthalate.
84-80-0	Phylloquinone.
87-86-5	Pentachlorophenol.
93-05-0	Diethyl-p-phenylenediamine.
95-63-6	Pseudocumene.
98-09-9	Benzenesulfonyl chloride.
106-99-0	Butadiene.
107-20-0	Chloroacetaldehyde.
108-67-8	Mesitylene.
109-19-3	Butyl isovalerate.
111-34-2	Butyl vinyl ether.
117-52-2	Coumafuryl.
117-84-0	Dioctyl phthalate.
128-56-3	Sodium anthraquinone-1-sulfonate.
131-11-3	Dimethyl phthalate.
287-92-3	Cyclopentane.
633-03-4	C.I. Basic Green 1.
640-15-3	Thiometon.
646-06-0	Dioxolane.
1314-32-5	Thallic oxide.
1331-17-5	Propylene glycol, allyl ether.
1335-87-1	Hexachloronaphthalene.
1405-87-4	Bacitracin.
2235-25-8	Ethylmercuric phosphate.
2244-16-8	Carvone.
3048-64-4	Vinlynorbornene.
7440-02-2	Nickel.
7440-48-4	Cobalt.
8023-53-8	Dichlorobenzalkonium chloride.
10025-65-7	Platinous chloride.
10025-97-5	Iridium tetrachloride.
10049-07-7	Rhodium trichloride.
13454-96-1	Platinum tetrachloride.
16919-58-7	Ammonium chloroplatinate.
20816-12-0	Osmium tetroxide.
21564-17-0	Thiocyanic acid, 2-(benzothiazolylthio)methyl ester.

TABLE 2.—SUBSTANCES PROPOSED FOR ADDITION TO THE LIST OF EXTREMELY HAZARDOUS SUBSTANCES

CAS No.	Chemical name	State	Proposed threshold planning quantity (lb)
70-69-9	Propiophenone, 4'-amino-.	Solid	100
330-55-2	Urea, 3-(3,4-dichlorophenyl)-1-methoxy-1-methyl- .	Solid	2
900-85-8	Stannane, acetoxytriphenyl- .	Solid	500
2587-90-8	Phosphorothioic acid, O,O-dimethyl- .	Liquid	500
3615-21-2	Benzimidazole, 4,5-dichloro-2-(trifluoromethyl)- .	Solid	500

[FR Doc. 86-25960 Filed 11-14-86; 8:45 am]

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Federal Register

Vol. 51, No. 221

Monday, November 17, 1986

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FEDERAL REGISTER PAGES AND DATES, NOVEMBER

39847-39992.....3
39993-40120.....4
40121-40300.....5
40301-40398.....6
40399-40780.....7
40781-40956.....10
40957-41066.....12
41067-41292.....13
41293-41470.....14
41471-41594.....17

CFR PARTS AFFECTED DURING NOVEMBER

At the end of each month, the Office of the Federal Register publishes separately a List of CFR Sections Affected (LSA), which lists parts and sections affected by documents published since the revision date of each title.

3 CFR

Proclamations:
5562.....39849
5563.....39851
5564.....40399
5565.....40403
5566.....40957
5567.....40959
5568.....40961
5569.....41293
5570.....41471

Executive Orders:
11157 (Amended by EO 12573).....40954
12170 (See Notice of November 10, 1986).....41067
12572.....40401
12573.....40954

Administrative Orders:
Notices:
November 10, 1986.....41067
Presidential Determinations:
No. 87-2 of October 22, 1986.....39847
No. 87-3 of October 27, 1986.....40301

5 CFR

Ch. XIV.....40121
532.....39853
874.....40975

Proposed Rules:
335.....40436

7 CFR

29.....40405
68.....40121
210.....41295
421.....40963
905.....40781
906.....41069
907.....40778, 41295
910.....39853, 40778, 41296
944.....41069
966.....41071
989.....40122
1097.....40782
1280.....40408
1900.....40783
1941.....40783
1943.....40783
1945.....40783
1955.....40783
1962.....40783
1965.....40783
1980.....40783

Proposed Rules:
57.....40174
68.....40174
425.....40438
1011.....40030
1064.....40176
1102.....40176
1106.....40176
1108.....40176
1126.....40176
1137.....39863
1138.....40176
3402.....41466

8 CFR

103.....39993
316a.....40123

Proposed Rules:
103.....40207
214.....40207

9 CFR

91.....41075
92.....40124

Proposed Rules:
51.....41108
92.....41109
115.....40034
118.....40034

10 CFR

50.....40303, 41353
51.....40303

Proposed Rules:
50.....40334, 40335
70.....40208
73.....40438
74.....40208
430.....40441
961.....40684

11 CFR

Proposed Rules:
100.....41110
106.....41110
9001.....41110
9002.....41110
9003.....41110
9004.....41110
9005.....41110
9006.....41110
9007.....41110
9031.....41110
9032.....41110
9033.....41110
9034.....41110
9035.....41110
9036.....41110
9037.....41110
9038.....41110
9039.....41110

12 CFR

225.....39994, 30963
543.....40127

546.....40127
552.....40127
562.....40127
563.....40127
563b.....40127
574.....40127

13 CFR

107.....441

14 CFR

1.....40692
39.....40001–40003, 40312, 40408, 40409, 40969, 41076–41079, 41473
43.....40692
45.....40692
61.....40692
71.....39855, 40156, 40410, 40970
91.....40692
97.....40971
133.....40692
135.....40692
204.....40410
291.....40410

Proposed Rules:

39.....39864, 39865, 40032–40035, 40209, 40210, 40442, 40811, 40985, 41110, 41112, 41113
71.....39866, 39867, 40036, 40812
73.....41114, 41116
150.....40037
159.....41290

15 CFR

372.....40156
373.....40156
374.....40156
377.....40156
379.....40156
390.....40156
399.....40159
806.....41476

Proposed Rules:

303.....40813

16 CFR

13.....40788
307.....40005

Proposed Rules:

13.....40039, 40336, 40443

17 CFR

200.....40789
202.....40791
211.....41079
240.....40792, 41296

Proposed Rules:

1.....41117
3.....40814
33.....41117
201.....39868
229.....39868
230.....39868

18 CFR

154.....41080
270.....40972
271.....40973

Proposed Rules:

1307.....40338

19 CFR

103.....40338, 40792

21 CFR

73.....40160
81.....39856
131.....40313
172.....40160
520.....41081
522.....41476
814.....40414
868.....40378
874.....40378

Proposed Rules:

150.....40817
874.....40394, 40396
878.....40396
886.....40396

22 CFR

526.....40160
527.....40160

23 CFR

625.....40817
637.....40415

26 CFR

31.....40167
602.....40167

Proposed Rules:

1.....40211
7.....40211
20.....40211
25.....40211
31.....40232
53.....40211
56.....40211

27 CFR

19.....40023

Proposed Rules:

4.....41355
5.....41355
7.....41355

29 CFR

2509.....41262
2510.....41262
2520.....41285
2550.....41262
2619.....41298
2676.....41299
1910.....41477

30 CFR

705.....40026
918.....40793
948.....40795

Proposed Rules:

15.....41046
250.....40819
256.....40819

31 CFR

316.....39990
332.....39990
342.....39990
351.....39990
352.....39990

Proposed Rules:

10.....40340

32 CFR

291b.....41300
706.....41477, 41478
2003.....40680

Proposed Rules:

166.....40820
231a.....40828
855.....41121

33 CFR

110.....39857
117.....39857, 40315, 41478
165.....41479
320.....41206
321.....41206
322.....41206
323.....41206
324.....41206
325.....41206
326.....41206
327.....41206
328.....41206
329.....41206
330.....41206

Proposed Rules:

100.....40341
117.....40342
151.....40950
158.....40950

34 CFR

222.....41562
682.....40886
683.....40886

35 CFR

251.....40418
253.....40418

36 CFR

7.....40418
223.....40315
251.....41081

39 CFR

111.....41300
221.....40796
222.....40796
223.....40796
244.....40796
776.....40170

40 CFR

51.....40656
52.....40316, 40317, 40419, 40656, 40798, 40799, 40975
62.....40799, 40802
81.....40803
260.....39859, 40572
261.....39859, 40572, 41082, 4110, 41306, 41323, 41480–41501
262.....39859, 40572
264.....39859, 40572
265.....39859, 40572
268.....39859, 40572
270.....39859, 40572
271.....39859, 40572
300.....41570
413.....40420
433.....40420
712.....41328
716.....41328
790.....41331
795.....40318
799.....40318, 41331

Proposed Rules:

52.....40446, 40447, 40828
60.....40043, 40448
81.....40043, 41355
86.....40986
180.....40987, 40988
260.....40726
261.....39968, 40343
264.....40726
270.....40726
300.....41592

41 CFR

101–40.....40805

42 CFR

405.....41332
406.....41332
408.....41332
409.....41332
410.....41332
421.....41332
431.....41332
433.....41332
435.....41332
489.....41332

Proposed Rules:

36.....40108

43 CFR

2910.....40807

Public Land Orders:

6628.....40421
6629.....41104

Proposed Rules:

11.....41131
426.....40742, 40774

44 CFR

64.....39859, 41505
65.....40330

Proposed Rules:

205.....41132

45 CFR

5b.....41352
96.....40026
1612.....40422

46 CFR

252.....40422

Proposed Rules:

98.....40951
151.....40951
153.....40951
172.....40951
580.....41132

47 CFR

0.....41105
73.....40170, 40433, 40434, 40976, 40977
97.....39859

Proposed Rules:

25.....40467
67.....40232
69.....40990
73.....40467, 40468, 41357–41360
74.....40990
78.....40990

48 CFR

502.....39861
505.....41506
509.....39861
513.....41506
516.....39862
519.....41506
552.....41506

LIST OF PUBLIC LAWS

Last List November 14, 1986

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H.R. 2663/Pub. L. 99-638

To amend title 5, United States Code, to credit time spent in the Cadet Nurse Corps during World War II as creditable service for civil service retirement; and to provide civil service retirement credit for certain employees and former employees of nonappropriated fund instrumentalities under the jurisdiction of the Armed Forces. (Nov. 10, 1986; 2 pages) Price: $1.00

H.R. 3737/Pub. L. 99-639

Immigration Marriage Fraud Amendments of 1986. (Nov. 10, 1986; 8 pages) Price: $1.00

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Futures Trading Act of 1986. (Nov. 10, 1986; 17 pages) Price: $1.00

H.R. 5180/Pub. L. 99-642

To designate the Federal Building at 111 W. Huron Street, Buffalo, New York, as the "Thaddeus J. Dulski Federal Building." (Nov. 10, 1986; 1 page) Price: $1.00

H.R. 5595/Pub. L. 99-643

Employment Opportunities for Disabled Americans Act. (Nov. 10, 1986; 7 pages) Price: $1.00

S. 485/Pub. L. 99-644

To amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the treatment of submerged lands and ownership by the Alaskan Native Corporation. (Nov. 10, 1986; 1 page) Price: $1.00

S. 740/Pub. L. 99-645

Emergency Wetlands Resources Act of 1986. (Nov. 10, 1986; 10 pages) Price: $1.00

S. 1236/Pub. L. 99-646

Criminal Law and Procedure Technical Amendments Act of 1986. (Nov. 10, 1986; 33 pages) Price: $1.25

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To establish the Blackstone River Valley National Heritage Corridor in Massachusetts and Rhode Island. (Nov. 10, 1986; 7 pages) Price: $1.00

S. 2000/Pub. L. 99-648

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S. 2648/Pub. L. 99-649

Injury Prevention Act of 1986. (Nov. 10, 1986; 2 pages) Price: $1.00

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16 Parts:		
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17 Parts:		
1-239	26.00	Apr. 1, 1986
240-End	19.00	Apr. 1, 1986
18 Parts:		
1-149	15.00	Apr. 1, 1986
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600-799	7.50	Apr. 1, 1986
800-1299	13.00	Apr. 1, 1986
1300-End	6.50	Apr. 1, 1986
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23	17.00	Apr. 1, 1986
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0-199	15.00	Apr. 1, 1986
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500-699	8.50	Apr. 1, 1986
700-1699	17.00	Apr. 1, 1986
1700-End	12.00	Apr. 1, 1986
25	24.00	Apr. 1, 1986
26 Parts:		
§§ 1.0-1.169	29.00	Apr. 1, 1986
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52	27.00	July 1, 1986
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*190–399	27.00	July 1, 1986
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1200–End	9.00	Oct. 1, 1985
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41–69	10.00	Oct. 1, 1985
70–89	5.50	Oct. 1, 1985
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140–155	8.50	Oct. 1, 1985
156–165	10.00	Oct. 1, 1985
166–199	9.00	Oct. 1, 1985
200–499	15.00	Oct. 1, 1985
500–End	7.50	Oct. 1, 1985
47 Parts:		
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49 Parts:		
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200–399	13.00	Oct. 1, 1985
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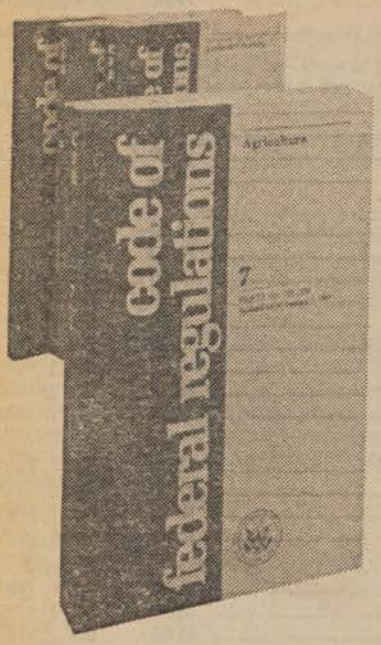
[2] No amendments to this volume were promulgated during the period July 1, 1984 to June 30, 1986. The CFR volume issued as of July 1, 1984, should be retained.

[3] No amendments to this volume were promulgated during the period July 1, 1985 to June 30, 1986. The CFR volume issued as of July 1, 1985 should be retained.

[4] The July 1, 1985 edition of 32 CFR Parts 1–189 contains a note only for Parts 1–39 inclusive. For the full text of the Defense Acquisition Regulations in Parts 1–39, consult the three CFR volumes issued as of July 1, 1984, containing those parts.

[5] The July 1, 1985 edition of 41 CFR Chapters 1–100 contains a note only for Chapters 1 to 49 inclusive. For the full text of procurement regulations in Chapters 1 to 49, consult the eleven CFR volumes issued as of July 1, 1984 containing those chapters.

[6] Because Title 3 is an annual compilation, this volume and all previous volumes should be retained as a permanent reference source.



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